

United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments. Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3623") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures <sup>1</sup>). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents

for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,<sup>2</sup> solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>3</sup> This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 23, 2022.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2022-11379 Filed 5-26-22; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 22-14]

#### Omar Garcia, M.D.; Decision and Order

On November 4, 2021, the former Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Omar Garcia, M.D. (hereinafter, Respondent) of Ocala, Florida. OSC, at 1 and 3. The OSC proposed the revocation of Respondent's Certificate of Registration No. FG2055158. *Id.* at 1. It alleged that Respondent is "without authority to handle controlled substances in Florida, the state in which [he is] registered with DEA." *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that on September 3, 2021, the Florida Board of

Medicine entered an Order that, effective immediately, revoked Respondent's state medical license after a finding that he had been convicted of six counts of Health Care Fraud and excluded for cause from participating in the Florida Medicaid program. *Id.*

The OSC notified Respondent of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The OSC also notified Respondent of the opportunity to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. 824(c)(2)(C)).

By email dated January 25, 2022,<sup>1</sup> Respondent's wife submitted a Request for Hearing on Respondent's behalf, stating that Respondent was in federal prison. Request for Hearing dated January 25, 2022. The Office of Administrative Law Judges put the matter on the docket and assigned it to Administrative Law Judge Teresa A. Wallbaum (hereinafter, the ALJ). On January 26, 2022, the ALJ issued an Order Regarding Request for Hearing Attachments and Filing Procedures<sup>2</sup> as well as an Order Directing the Government to File Evidence Regarding Service of the Order to Show Cause. On January 28, 2022, the Respondent's wife filed a copy of her Power of Attorney as well as an updated Request for Hearing dated January 26, 2022. In the updated Request for Hearing, Respondent's wife represented that although Respondent's Florida medical license was revoked, his DEA registration had been issued in Illinois, not Florida. Request for Hearing dated January 26, 2022, at 1. Respondent's wife also noted that Respondent holds three other state licenses and that his DEA registration record was "impeccable." *Id.* On February 9, 2022, the Government filed its Notice of Filing of Evidence Regarding Proof of Service.<sup>3</sup>

<sup>1</sup> Because the Request for Hearing was emailed after 5:00 p.m. on January 25, 2022, it was deemed filed on January 26, 2022. Order Regarding Request for Hearing Attachments and Filing Procedures, at 1.

<sup>2</sup> In the Request for Hearing email, Respondent's wife represented that she had included her Power of Attorney in the form of fourteen file attachments, but the ALJ was unable to access the attachments. Order Regarding Request for Hearing Attachments and Filing Procedures, at 1; see also Request for Hearing.

<sup>3</sup> The Government's Notice of Filing of Evidence Regarding Proof of Service showed that Respondent was not served with the OSC until January 4, 2022, thus, Respondent's Request for Hearing was timely filed. Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (hereinafter,

<sup>1</sup> Handbook for Electronic Filing Procedures: [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf).

<sup>2</sup> All contract personnel will sign appropriate nondisclosure agreements.

<sup>3</sup> Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

On February 9, 2022, the ALJ issued an Order Directing the Government to File Evidence Regarding its Lack of State Authority Allegation and Briefing Schedule. The Government timely filed its Notice of Filing of Evidence and Motion for Summary Disposition (hereinafter, Motion for Summary Disposition) on February 25, 2022, RD, at 2. In its Motion, the Government represented that Respondent lacks authority to handle controlled substances in Florida, the state in which he is registered with the DEA, and argued that, therefore, Respondent's DEA registration must be revoked. Motion for Summary Disposition, at 1–6. Respondent failed to timely file a response to the Government's Motion and on March 25, 2022, the ALJ issued an Order Directing Compliance to Respondent, RD, at 2. By email dated March 21, 2022,<sup>4</sup> Respondent's wife requested additional time to file a response and on the same day, the ALJ issued an Order Regarding Respondent's Extension Request extending the deadline. *Id.* On March 24, 2022, Respondent filed a Response to the Motion for Summary Disposition (hereinafter, Response). In his Response dated March 22, 2022, Respondent indicated that he missed the original deadline because he is incarcerated and it had been an oversight by his wife. Response, at 1. Respondent also stated that as of March 14, 2022, an updated DEA registration was sent to his home address, and that prior to the update, the registration was listed as being issued in Illinois. *Id.* at 2. Finally, Respondent reiterated that he had medical licenses in other states and noted that his underlying conviction was being appealed. *Id.*

On March 29, 2022, the ALJ granted the Government's Motion for Summary Disposition, finding that “[t]here is no genuine issue of material fact in this case.” RD, at 8. The ALJ recommended that Respondent's registration be revoked and that any application to renew or modify his registration, and any applications for any other DEA registrations in Florida, be denied because Respondent lacks state authority to handle control substances. *Id.* at 9. By letter dated April 25, 2022, the ALJ certified and transmitted the record to me for final Agency action and noted that neither party filed exceptions.

Recommended Decision or RD); *see also* Government's Notice of Filing of Evidence Regarding Proof of Service.

<sup>4</sup>Because the request was emailed after 5:00 p.m. on March 21, 2022, it was deemed filed on March 22, 2022. *Id.* at 3.

I issue this Decision and Order based on the entire record before me. 21 CFR 1301.43(e). I make the following findings of fact.

### Findings of Fact

#### *Respondent's DEA Registration*

Respondent is the holder of DEA Certificate of Registration No. FG2055158 at the registered address of 7258 SE 2nd Ave., Ocala, FL 34480. Motion for Summary Disposition, Attachment (hereinafter, Gov. Att.) 2, Exhibit (hereinafter, Ex.) 1 (Certificate of Registration). Pursuant to this registration, Respondent is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Respondent's registration expires on September 30, 2022. *Id.* On April 30, 2021, DEA granted Respondent's request to change his registered address from Illinois to Florida. Gov. Att. 2.

#### *The Status of Respondent's State License*

On December 11, 2020, the State of Florida Department of Health (hereinafter, the Department) issued an Administrative Complaint against Respondent alleging that on or about February 27, 2020, the Florida Agency for Health Care Administration terminated Respondent's participation in the state Medicaid program and therefore, Respondent was subject to Department discipline. Gov. Att. 1, Ex. 1, at 5–7. On September 3, 2021, the State of Florida Board of Medicine (hereinafter, the Board) issued a Final Order revoking Respondent's state medical license after finding that Respondent had been convicted of six counts of Health Care Fraud and that Respondent had been sanctioned and terminated with cause from participating in the Florida Medicaid program. *Id.* at 1–3.

According to Florida's online records, of which I take official notice, Respondent's medical license is still revoked.<sup>5</sup> Florida Department of Health

<sup>5</sup> 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, Respondent may dispute my finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at [dea.addo.attorneys@dea.usdoj.gov](mailto:dea.addo.attorneys@dea.usdoj.gov).

License Verification, <https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders> (last visited date of signature of this Order). Accordingly, I find that Respondent is not currently licensed to practice medicine in Florida, the state in which he is registered with the DEA.<sup>6</sup>

### 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 Controlled Substances Act (hereinafter, 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 FR 71371 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (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.

<sup>6</sup> Respondent argues that his DEA registration was issued in Illinois, not Florida, however, the record evidence shows that his DEA registration currently has a registered address in Florida. *See* Gov. Att. 2, Ex. 1 (Certificate of Registration). Further, even if Respondent's registered address were in Illinois, according to Illinois online records, of which I take official notice, Respondent's Illinois medical license is indefinitely suspended and Respondent's Illinois controlled substances registration is expired. Illinois Department of Financial and Professional Regulation License Lookup, <https://online-dfpr.micropact.com/lookup/licenselookup.aspx> (last visited date of signature of this Order). Thus, Respondent is not currently licensed to engage in the practice of medicine nor registered to dispense controlled substances in Illinois. Respondent argues that he has other state medical licenses that could be used as a basis for DEA registration, however, as the ALJ stated, the argument fails “because Respondent provides no evidence to support this assertion; indeed, he does not even identify those other states.” RD, at 8. Moreover, “even if [Respondent] does have other valid state medical licenses, his DEA registration is based on his Florida medical license, and that has undeniably been revoked.” *Id.*

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 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 FR at 71371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR at 27617. Moreover, because "the controlling question" in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's 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 is still challenging the underlying action. *Bourne Pharmacy*, 72 FR 18273, 18274 (2007); *Wingfield Drugs*, 52 FR 27070, 27071 (1987). Thus, it is of no consequence that in this case, Respondent's underlying conviction is being appealed. What is consequential is my finding that Respondent is no longer currently authorized to dispense controlled substances in Florida, the state in which he is registered with the DEA.

According to Florida statute, "A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, dispense, mix, or otherwise prepare a controlled substance." Fla. Stat. Ann. 893.05(1)(a) (West 2022). Further, a "practitioner" as defined by Florida statute includes "a physician licensed under chapter 458."<sup>7</sup> *Id.* at § 893.02(23).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to practice medicine in Florida. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in Florida. Thus, because Respondent lacks authority to practice medicine in Florida and, therefore, is not authorized to handle controlled

substances in Florida, Respondent is not eligible to maintain a DEA registration. Accordingly, I will order that Respondent'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. FG2055158 issued to Omar Garcia, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Omar Garcia, M.D. to renew or modify this registration, as well as any other pending application of Omar Garcia, M.D. for additional registration in Florida. This Order is effective June 27, 2022.

**Anne Milgram,**  
Administrator.

[FR Doc. 2022–11507 Filed 5–26–22; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On May 23, 2022, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Montana entitled *United States and the State of Delaware v. Burlington Northern Santa Fe Railway Co. and Montana Rail Link, Inc.*, Civil Action No. 6:22–cv–00035–SEH.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The complaint alleges that the defendants are liable in connection with the releases of hazardous substances at the East Helena Superfund Site (the "Site") in East Helena, Montana. Under the consent decree, the defendants will expend an estimated \$852,200 to remediate an active railyard within the Site boundaries. They will also reimburse EPA's costs of overseeing their work. In return, the United States and Delaware agree not to sue the defendants under sections 106 and 107 of CERCLA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Burlington Northern*

*Santa Fe Railway Co. and Montana Rail Link, Inc.*, D.J. Ref. No. 90–11–3–08633/7. 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, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree without the exhibits 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 \$10.50 (25 cents per page reproduction cost) payable to the United States Treasury.

**Jeffrey Sands,**

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

[FR Doc. 2022–11489 Filed 5–26–22; 8:45 am]

BILLING CODE 4410–15–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Agency Information Collection Activities; Comment Request; Worker Profiling and Reemployment Services Activity and Worker Profiling and Reemployment Services Outcomes

**ACTION:** Notice.

**SUMMARY:** The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, "Worker Profiling and Reemployment Services Activity and Worker Profiling and Reemployment Services Outcomes." This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

<sup>7</sup> Chapter 458 regulates medical practice.