the state in which he is registered with the DEA.

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 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).[5]

According to California statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, furnishing, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Cal. Health & Safety Code section 11010 (West 2022). Further, a ''practitioner'' means a person ''licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in this state.'' *Id.* at section 11026(c).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice medicine in California. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in California. Thus, because Registrant lacks authority to practice medicine in California and, therefore, is not authorized to handle controlled substances in California, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency 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. BA8767646 issued to Matt M. Ahmadi, D.P.M. 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 applications of Matt M. Ahmadi, D.P.M., to renew or modify this registration, as well as any other pending application of Matt M. Ahmadi, D.P.M., for additional registration in California. This Order is effective October 31, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 26, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–21269 Filed 9–29–22; 8:45 am]

BILLING CODE 4410–09–P

[5] 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 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.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Thomas Blair, M.D.; Decision and Order

On May 25, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Thomas Blair, M.D. (hereinafter, Registrant). Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) D (OSC), at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. AB1253880 at the registered address of 725 W. La Veta Avenue, Suite 110, Orange, CA 92868. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''without authority to prescribe controlled substances in the State of California, the state in which [he is] registered with the DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence offered by the Government in its RFAA, which was submitted on September 8, 2022.[1]

Findings of Fact

On November 2, 2021, an Administrative Law Judge from the State of California, Office of Administrative Hearings, issued a Decision and Order suspending Registrant's California medical license. RFAAX B, at 2, 35. According to California's online records, of which the Agency takes official notice, Registrant's license is still suspended.[2] Medical Board of California License Verification, *https://www.mbc.ca.gov/License-Verification* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to engage in the practice of medicine in California, the state in which he is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to

[1] Based on a Declaration from a DEA Diversion Investigator, the Agency finds that the Government's service of the OSC on Registrant was adequate. RFAA, Declaration 1, at 2. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC and Registrant has neither requested a hearing nor submitted a written statement or corrective action plan and therefore has waived any such rights. RFAA, at 1, 3; *see also* 21 CFR 1301.43 and 21 U.S.C. 824(c)(2).

[2] 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 the Agency's 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.*

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 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).[3]

According to California statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, furnishing, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Cal. Health & Safety Code § 11010 (West 2022). Further, a ''practitioner'' means a person ''licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in this state.'' *Id.* at § 11026(c).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in California. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in California. Thus, because Registrant currently lacks authority to practice medicine in California and, therefore, is not currently authorized to handle controlled substances in California, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency 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. AB1253880 issued to Thomas Blair, 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 applications of Thomas Blair, M.D., to renew or modify this registration, as well as any other pending application of Thomas Blair, M.D., for additional registration in California. This Order is effective October 31, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 26, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–21274 Filed 9–29–22; 8:45 am]

BILLING CODE 4410–09–P

[3] 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 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.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 21–24]

Lewisville Medical Pharmacy; Decision and Order

I. Introduction

On June 9, 2021, the United States Department of Justice, Drug Enforcement Administration (hereinafter, Agency) issued an Order to Show Cause and Immediate Suspension of Registration (hereinafter collectively, OSC) to Lewisville Medical Pharmacy (hereinafter, Respondent) of Lewisville, Texas. OSC, at 1–2, 11. The OSC immediately suspended, and proposed the revocation of, Respondent's Drug Enforcement Administration (hereinafter, DEA) registration No. FL2190332, pursuant to 21 U.S.C. 824(d) and (a)(4), respectively, ''because . . . [Respondent's] continued registration constitutes 'an imminent danger to the public health or safety' '' and ''because . . . [Respondent's] continued registration is inconsistent with the public interest, as that term is defined in 21 U.S.C. 823(f).'' *Id.* at 1. The OSC more specifically alleged that, according to Respondent's ''dispensing information'' from at least March 2, 2018, through at least March 20, 2021, Respondent ''repeatedly filled prescriptions for Schedule III through V controlled substances in the face of obvious and unresolved red flags of drug abuse and diversion [hereinafter, red flags], and therefore, in violation of both federal and Texas law,'' including 21 CFR 1306.04(a) and Texas Health & Safety Code § 481.074(a).[1] *Id.* at 2. The OSC includes allegations about pattern prescribing (which it defines as prescribing the same controlled substance in identical or substantially similar quantities to multiple individuals indicating a lack of individualized therapy), distance (which it defines as traveling abnormally long distances to fill a controlled substance prescription), cash payment (which it defines as a common red flag of abuse and diversion as it permits an individual to avoid scrutiny associated with the use of insurance as part of the payment process), and shared address (which it defines as multiple persons with the same address presenting the same or substantially similar controlled substance prescriptions from the same practitioner) red flags.[2] *Id.* at 4–10.

Respondent timely requested a hearing. Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law

[1] The Agency is only adjudicating controlled substance prescriptions in the record that are dated on or after September 16, 2018. *See* 22 TAC § 291.29 (effective September 16, 2018).

[2] The phrase ''red flag'' is used in the record before the Agency with varying accuracy. The testimony of the Government's expert accurately defines the phrase and a Texas pharmacist's obligation when presented with a controlled substance prescription, that is, consistent with federal law. *See, e.g.,* Tr. 555–56; *infra,* section II.A. The use of the phrase in Respondent's case, on the other hand, is not always fully accurate. *Infra,* section II.B. When Respondent's case accurately acknowledges circumstances that are red flags, it rarely states a Texas pharmacist's ensuing obligation accurately. *Id.* When Respondent uses the phrase when questioning the Government's expert, the context out of which the expert responds is an accurate understanding of the phrase regardless of what Respondent meant by its question.