

[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 condition³ 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).⁴

According to Alabama statute, “[e]very person who manufactures, distributes, or dispenses any controlled substance within [the] state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within [the] state

³ As such, the Agency finds Respondent’s arguments regarding the permissive nature of 21 U.S.C. 824(a)(3), *see* Respondent’s Response, at 3–4, to be unavailing. RD, at 5; *see also Bhanoo Sharma, M.D.*, 87 FR 41355, 41356 n.4 (2022).

⁴ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . veterinarian . . . 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(g)(1) (this section, formerly section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117–215, 136 Stat. 2257 (2022)). 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 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 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 here that the final outcome of the underlying action against Respondent may still be pending. *See* Respondent’s Response, at 3–4. What is consequential is the Agency’s finding that Respondent is not currently authorized to dispense controlled substances in Alabama, the state in which she is registered with the DEA. *Austin J. Kosier, M.D.*, 87 FR 4941, 4943 (2022).

must obtain annually a registration issued by the certifying boards in accordance with [their] rules.” Ala. Code section 20–2–51(a) (2022); *see also* Ala. Admin. Code r. 930–X–1.13(1) (2022) (“[a]ll licensed veterinarians who handle controlled substances must register annually with the State Board and get a state controlled substance number from the Board”). Further, “dispense” means “[t]o deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.” Ala. Code section 20–2–2(7) (2022).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to dispense controlled substances in Alabama because her Alabama controlled substance license has been suspended. RD, at 5. As discussed above, an individual must hold an Alabama controlled substance license to dispense a controlled substance in Alabama. RD, at 5–6. Thus, because Respondent lacks authority to handle controlled substances in Alabama, Respondent is not eligible to maintain a DEA registration. *See* RD, at 6. Accordingly, the Agency 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. FE4914164 issued to Heather M. Entekin, DVM. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Heather M. Entekin, DVM, to renew or modify this registration, as well as any other pending application of Heather M. Entekin, DVM, for additional registration in Alabama. This Order is effective April 21, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on March 15, 2023, 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. 2023–05804 Filed 3–21–23; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–2]

Christina Collins, APRN; Decision and Order

On September 28, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Christina Collins, APRN (Respondent). OSC, at 1, 3. The OSC proposed the denial of Respondent’s renewal application¹ because Respondent is “without authority to handle controlled substances in the State of Tennessee, the state in which [she is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Respondent requested a hearing;² thereafter the Government filed and the ALJ granted a Motion for Summary Disposition recommending the denial of Respondent’s renewal application for her registration. RD, at 7–8. Respondent did not file exceptions to the RD. Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ’s rulings, findings of fact, conclusions of law, and recommended sanction and summarizes and expands upon portions thereof herein.

Findings of Fact

On February 28, 2022, the Tennessee Board of Nursing issued a Final Order revoking Respondent’s Tennessee license to practice as an Advanced Practice Registered Nurse (APRN license). RD, at 6–7; Government’s Submission of Evidence Regarding Proof of Service and Motion for Summary Disposition, Exhibit (GX) D, at 1, 11,

¹ Certificate of Registration No. MC1638696 at the registered address of 6523 Central Avenue Pike, Knoxville, Tennessee 37912. *Id.* at 1.

² Respondent’s Request for Hearing is dated October 31, 2022, *see* Administrative Law Judge Exhibit (ALJX) 4, at 1, but was deemed filed on November 1, 2022. Further, although Respondent’s Request for Hearing was untimely, the Administrative Law Judge (ALJ) accepted the filing. 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 (Recommended Decision or RD), at 2–4.

13.³ According to Tennessee's online records, of which the Agency takes official notice, Respondent's APRN license is revoked.⁴ Tennessee Department of Health License Verification, <https://apps.health.tn.gov/Licensure/default.aspx> (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not licensed to practice as an Advanced Practice Registered Nurse in Tennessee, the state in which she 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 Controlled Substances Act (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

³In that Order, the Board went on to state that, "[s]hould Respondent be granted a new advance practice registered nurse certificate by this Board [in the future], Respondent's advance practice registered nurse certificate shall be restricted to prohibit Respondent from prescribing controlled substances." GX D, at 11.

⁴Under 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 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.gov.

⁵This 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

According to Tennessee 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, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery." Tenn. Code Ann. section 39-17-402(7) (2022). Further, a "practitioner" means "[a] physician . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state." *Id.* at section 39-17-402(23)(A). According to Tennessee nursing regulations, "[c]ertification by the Tennessee Board of Nursing to prescribe and/or issue legend drugs . . . shall authorize a nurse practitioner⁶ to prescribe and/or issue such drugs. Any nurse who prescribes and/or issues drugs without proper certification by the Tennessee Board of Nursing shall be subject to disciplinary action by the Board of Nursing . . ." Tenn. Comp. R. & Regs. 1000-04-.04(1) (2022).

Here, the evidence in the record is that Respondent lacks authority to practice as an Advanced Practice

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(g)(1) (this section, formerly section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117-215, 136 Stat. 2257 (2022)). 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, M.D.*, 76 FR 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, M.D.*, 43 FR 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 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 Respondent is still challenging the underlying action here. *See* Respondent's Reply to the Government's Motion for Summary Disposition, at 4-8; RD, at 6-7. What is consequential is the Agency's finding that Respondent is not currently authorized to dispense controlled substances in Tennessee, the state in which she is registered with the DEA. *Adley Dasilva, P.A.*, 87 FR 69341, 69341 n.2 (2022).

⁶Prior to revocation, Respondent's APRN license designated Respondent as a "Nurse Practitioner with Certificate of Fitness."

Registered Nurse in Tennessee, RD, at 7. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Tennessee. Thus, because Respondent lacks authority to practice as an Advanced Practice Registered Nurse in Tennessee and, therefore, is not authorized to handle controlled substances in Tennessee, Respondent is not eligible to maintain a DEA registration. RD, at 7-8. Accordingly, the Agency will order that Respondent's application for renewal of her registration be denied.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny the pending application of Christina Collins, APRN, for renewal of her DEA Certificate of Registration No. MC1638696, as well as any other pending application of Christina Collins, APRN, for additional registration in Tennessee. This Order is effective April 21, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on March 15, 2023, 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.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23-12]

Karl Kauffman, M.D.; Decision and Order

On November 18, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Karl Kauffman, M.D. (Respondent). OSC, at 1, 3. The OSC proposed the revocation of