

the Agency finds that Registrant is not licensed to engage in the practice of medicine in New York, the state in which he is registered with 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 (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, 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 the New York Controlled Substances Act (hereinafter, the Act), “[i]t shall be unlawful for any person to manufacture, sell, prescribe, distribute, dispense, administer, possess, have under his control, abandon, or transport a controlled substance except as expressly allowed by this article.” N.Y. Pub. Health Law section 3304 (McKinney 2023). Further, the Act defines a “practitioner” as “[a] physician . . . or other person licensed, or otherwise permitted to dispense, administer or conduct research with

respect to a controlled substance in the course of a licensed professional practice. . . .” *Id.* at section 3302(27). Finally, New York regulations state that “[a] prescription for a controlled substance may be issued only by a practitioner who is . . . authorized to prescribe controlled substances pursuant to his licensed professional practice. . . .” N.Y. Comp. Codes R. & Regs. tit. 10, section 80.64(a)(1) (2023).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice medicine in New York. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in New York. Thus, because Registrant lacks authority to practice medicine in New York and, therefore, is not authorized to handle controlled substances in New York, 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. BS8311502 issued to Dmitry Anatolevich Shelchkov, M.D. 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 Dmitry Anatolevich Shelchkov, M.D., to renew or modify this registration, as well as any other pending application of Dmitry Anatolevich Shelchkov, M.D., for additional registration in New York. This Order is effective November 30, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on October 20, 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. 2023–23950 Filed 10–30–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Siamak Arassi, M.D.; Decision and Order

On May 24, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Siamak Arassi, M.D. (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1 at 1, 3. The OSC proposed the revocation of Registrant’s Certificate of Registration No. BA8851809 at the registered address of 19115 W Capitol Dr., Suite 117, Brookfield, Wisconsin 53045. *Id.* at 1. The OSC alleged that Registrant’s registration should be revoked because Registrant is “currently without authority to handle controlled substances in the State of Wisconsin,” the state in which he is registered with DEA. *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to be in default. OSC, at 2 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.¹ “A default, unless excused, shall be deemed to constitute a waiver of the registrant’s/applicant’s right to a hearing and an admission of the factual allegations of the [OSC].” 21 CFR 1301.43(e).

Further, “[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67.” *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant’s default pursuant to 21 CFR 1301.43(c), (f). *See also id.* § 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant’s default, the factual allegations in the OSC are admitted. According to the OSC, on February 15, 2023, the State of Wisconsin Medical

¹ On June 1, 2023, a DEA Diversion Investigator (DI) emailed Registrant at his personal email address, attaching a copy of the OSC with a delivery and read receipt request. RFAAX 2, at 2. DI received notification that the email was delivered successfully. *Id.* Registrant responded on the same day by email but did not request a hearing. RFAAX 2, Attachment E. Based on the information in the record, the Agency finds that the Government’s service of the OSC on Registrant was adequate. RFAA, at 2 (citing *Emilio Luna, M.D.*, 77 FR 4829, 4830 (2012) (finding service via email can satisfy due process)).

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(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, 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 27,617.

Examining Board issued a Final Decision and Order indefinitely suspending Registrant's license to practice medicine and surgery. RFAAX 1, at 2; RFAAX 2, Attachment C, at 15.

According to Wisconsin's online records, of which the Agency takes official notice, Registrant's Wisconsin medical license remains suspended.² Wisconsin Department of Safety and Professional Services, Wisconsin Credential/License Search, <https://licensesearch.wi.gov/> (last visited date of signature of this Order). Therefore, the Agency finds that Registrant is not authorized to practice medicine nor to handle controlled substances in Wisconsin, the state in which he is registered with DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "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, 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, D.O.*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.*, 43 FR 27616, 27617 (1978).³

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 the DEA Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

³ This rule derives from the text of two provisions of the Controlled Substances Act (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 Wisconsin 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." Wis. Stat. section 961.01(7) (2023). Further, a "practitioner" means a "physician . . . or other person licensed, registered, certified or otherwise permitted to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in [Wisconsin]." *Id.* section 961.01(19)(a).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Wisconsin. As already discussed, a practitioner must be a licensed practitioner to dispense controlled substances in Wisconsin. Thus, because Registrant lacks a license to practice medicine in Wisconsin and, therefore, is not authorized to handle controlled substances in Wisconsin, 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. BA8851809 issued to Siamak Arassi, M.D. 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 Siamak Arassi, M.D., to renew or modify this registration, as well as any other pending application of Siamak Arassi, M.D., for additional registration in Wisconsin. This Order is effective November 30, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed

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). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, 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, D.O.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.*, 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

on October 20, 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. 2023–23958 Filed 10–30–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Demille W. Madoux, M.D.; Decision and Order

On January 11, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Demille W. Madoux, M.D. (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1, 4. The OSC proposed the revocation of Registrant's Certificate of Registration No. BM0663523 at the registered address of 13921 N Meridian Ave., Suite 100, Oklahoma City, Oklahoma 73134. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is "currently without authority to handle controlled substances in the State of Oklahoma, the state in which [he is] registered with DEA." *Id.* at 2 (citing, *inter alia*, 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to be in default. *Id.* at 2–3 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 1.¹ "A default, unless excused, shall be deemed to constitute a waiver of the [registrant's] right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in

¹ Based on the Government's submissions in its RFAA dated April 25, 2023, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the included copy of the certified mail return receipt indicates that on March 11, 2023, Registrant was personally served with the OSC at his personal address. RFAAX 1, at 8.