"knowingly and intelligently" waive his right to a hearing before the Mississippi Board, *id.* at 12; his "waiver [was] obtained through misrepresentation and under extreme duress," *id.* at 8; and he is currently challenging the validity of his waiver in the Mississippi State Courts. *Id.* at 12.

This argument, however, takes Respondent nowhere because "DEA has repeatedly held 'that a registrant cannot collaterally attack the results of a state criminal or administrative proceeding in a proceeding under section 304 [21 U.S.C. § 824] of the CSA.'" *Hicham K. Riba,* 73 FR 75773, 75774 (2008) (quoting *Brenton D. Glisson,* 72 FR 54296, 54297 (2007) (other citation omitted)). *See also Shahid Musud Siddiqui,* 61 FR 14818 (1996); *Robert A. Leslie,* 60 FR 14004 (1995). Respondent's various contentions regarding the validity of the Consent Order are therefore not material to this Agency's resolution of whether he is entitled to maintain his DEA registration.

Because 21 U.S.C. 824(a)(3) authorizes the revocation of a registration "upon a finding that the registrant * * * has had his State license suspended [or] revoked * * * and is no longer authorized by State law to engage in the * * * distribution [or] dispensing of controlled substance," the only fact material to resolving this dispute is whether Respondent holds a State license. There being no dispute that Respondent lacks the requisite state authority, there was no need for an evidentiary hearing, as summary judgment has been used for more than 100 years to resolve legal "actions in which there is no genuine issue as to any material fact" and has never been deemed to violate Due Process. *See* Fed. R. Civ. P. 56 (Advisory Committee Notes—1937 Adoption). *Cf. Codd* v. *Velger,* 429 U.S. 624, 627 (1977).

Nor was Respondent entitled to an in-person hearing to challenge the sanction which the ALJ recommended. *Cf. Anderson* v. *Recore,* 446 F.3d 324, 330–31 (2d Cir. 2006). Under DEA's longstanding interpretation of the CSA, revocation is warranted whenever a practitioner's state authority has been revoked because, under the plain terms of the statute, possessing such authority is an essential condition for holding a DEA registration. *See* 21 U.S.C. 802(21) ("[t]he term 'practitioner' means a physician * * * 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"). *See also id.* § 823(f) ("The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.").

Accordingly, DEA has repeatedly held that the CSA requires the revocation of a registration issued to a practitioner whose state license has been suspended or revoked. *David W. Wang,* 72 FR 54297, 54298 (2007); *Sheran Arden Yeates,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988).[6] This is so even where a state board has suspended (as opposed to revoked) a practitioner's authority with the possibility that the authority may be restored at some point in the future, *Rodriguez,* 70 FR at 33207, as well as where, as here, a practitioner has sought judicial review of the state board proceeding. *Dolin,* 65 FR at 5662. Because Respondent currently lacks authority to dispense controlled substances in Mississippi, the State in which he holds his DEA registration, his registration will be revoked and any pending applications will be denied.[7]

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration, AR7086689, issued to Calvin Ramsey, M.D., be, and it hereby is, revoked. I further order that any pending application of Calvin Ramsey, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective May 11, 2011.

Dated: April 1, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2011–8533 Filed 4–8–11; 8:45 am]

BILLING CODE 4410–09–P

[6] In his Exceptions, Respondent cites two cases which he contends the ALJ "failed to consider" as cases where physicians had lost their state licenses and yet "no revocation of [the] physician's DEA license occurred. Exceptions at 8 (citing *Barry H. Brooks, M.D.,* 66 FR 18305 (2001); *Vincent J. Scolaro,* 67 FR 42060 (2002)). Neither of these case support Respondent because in both of them, the physician's state authority had been restored at the time of the proceeding. *See Brooks,* 66 FR at 18308; *Scolaro,* 67 FR at 42065.

[7] In the event the State Board restores Respondent's medical license at some point in the future, he can then apply for a new registration.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Clifton D. Burt, M.D.; Revocation of Registration

On April 6, 2010, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Clifton D. Burt (Registrant) of Richmond, Virginia and Union, New Jersey. The Show Cause Order proposed the revocation of Registrant's DEA Certificates of Registration, FB0575499 and FB1499587, on the ground that his "continued registrations are inconsistent with the public interest as that term is defined in 21 U.S.C. 823(f)." Show Cause Order, at 1.

The Show Cause Order alleged that from "May 2008 to October 2008," Registrant "prescribed controlled substances to individuals via the Internet based on online questionnaires, submissions of unverifiable medical records, and telephone consultations" such that the prescriptions "were for other than a legitimate medical purpose or outside the usual course of professional practice in contravention of 21 CFR 1306.04(a)." *Id.* at 2. The Order further alleged that Registrant "failed to establish a valid physician-patient relationship as required by the laws of Virginia." *Id.* (citing, *inter alia,* Va. Code Ann. §§ 54.1–2915.A(3), (13), (16) & (17)). The Order next alleged that "[f]rom October 2008 to March 2009," Registrant "directly dispensed control substances to patients in Schedules IV and V without possessing a controlled substance certificate in violation of the laws of the Commonwealth of Virginia." *Id.* (citing, *inter alia,* Va. Code Ann. §§ 54.1–2914.A., 54.1–2915.A(17) & (18), 54–1–111.A(4),[1] and 54.1–3303(A)). The Order also informed Registrant of his right to request a hearing or to submit a written statement in lieu of a hearing, the applicable procedures for doing so, and the consequence if he failed to do either. *Id.* at 2–3.

On April 9, 2010, the Show Cause Order was served on Registrant by registered mail addressed to him at both of his registered locations. Since that time, thirty days have now passed, and neither Registrant, nor anyone purporting to representing him, has either requested a hearing or submitted a written statement. I therefore find that Registrant has waived his rights under 21 CFR 1301.43(b) and (c) and therefore

[1] The correct citation is Va. Code Ann. § 54.1–111.A(4).

issue this Decision and Final Order based on relevant evidence contained in the record submitted by the Government. 21 CFR 1301.43(e).

Findings

Registrant is the holder of two DEA registrations, both of which authorize him to dispense controlled substances in schedules II through V as a practitioner: (1) Certificate of Registration FB1499587, issued for the registered location of 1505 Stuyvesant Avenue, Union, New Jersey, and which expires on July 31, 2012; and (2) Certificate of Registration FB0575499, issued for the registered location of 9211 Burge Avenue, Richmond, Virginia, which expires on July 31, 2010. The record, however, contains no evidence as to whether Respondent has filed an application to renew the latter registration.

On September 17, 2008 a DEA Diversion Investigator (DI) and a DEA Special Agent (SA) interviewed patient T.M. at the Richmond District Office. T.M. indicated that since 2006, he had obtained hydrocodone through the Web site Fortune Telemed on ten to fifteen occasions. T.M. stated that he acquired the drugs by visiting the Web site, filling out an online questionnaire, and requesting the drug; T.M. also faxed his medical records to the Web site. Thereafter, T.M. spoke on the phone with individuals who identified themselves as physicians and who, after a brief consultation, wrote prescriptions for him for hydrocodone/acetaminophen(apap) (10/325 mgs.), the drug he had requested. T.M. was never physically examined by, let alone met, any of the physicians who issued the prescriptions he obtained through Fortune Telemed.

During his interview, T.M. did not recall the names of the Fortune Telemed physicians. However, the record contains copies of two controlled substance prescriptions (dated June 7 and July 20, 2008) issued by Registrant for T.M., both of which were for 45 tablets of hydrocodone/apap (10/325 mgs.), a schedule III controlled substance. *See* 21 CFR 1308.13(e).

On September 18, 2008, two DIs interviewed patient N.N. N.N. stated that he had received hydrocodone/apap (10/325 mgs.) ten to fifteen times in the last year and a half from the Web site Topline.com. N.N. stated that to acquire the drugs, he had completed an online questionnaire, requested the drug and faxed his medical records to Topline; thereafter, N.N. was called by individuals who identified themselves as physicians and who wrote the prescriptions after consultations which typically lasted less than five minutes. N.N. was never physically examined by, nor saw, any of these physicians.

N.N. did not remember the names of any of the Topline physicians. The record, however, contains a copy of a prescription written by Registrant for N.N. on June 10, 2008 for 90 tablets of hydrocodone/apap (10/325 mgs.).

On September 24, 2008, a DI and SA interviewed patient R.D. in Alexandria, Virginia. R.D. stated that during the previous two and a half to three years, he had obtained hydrocodone/apap (10/500 mgs.) approximately 30 times from the Web site Telemed. R.D. stated that he had filled out an online questionnaire, requested the drug, and faxed his medical records to Telemed. Thereafter, R.D. was called by individuals who identified themselves as doctors from Telemed, who then did a two to three minute-long consultation with him. R.D. stated that he never was physically examined by the Telemed doctors and never saw them.

Although R.D. stated that he had obtained hydrocodone 10 mg. from Telemed, the only prescriptions written by Registrant for him which are in the record were for 30 tablets of Ambien (zolpidem), a schedule IV controlled substance.[2] *See* 21 CFR 1308.14(c). The prescriptions were dated July 1, October 14, November 26, and December 26, 2008.

On September 26, 2008, a DI and an SA interviewed patient K.H. at his residence in Manassas, Virginia. K.H. indicated that he first visited the Topline Web site to obtain drugs in "[e]arly 2008." He completed an online questionnaire and faxed his medical records to the site. He was then contacted by individuals identifying themselves as physicians who, after "[n]o more than five (5) minutes" of conversation, wrote prescriptions for hydrocodone/apap (10/500 mgs.). The Topline doctors issued the prescriptions without ever physically examining or meeting him.

The investigative file contains three controlled substance prescriptions written by Registrant for K.H. All were for 90 tablets of hydrocodone/apap (10/500 mgs.) and are dated October 30, November 28, and December 23, 2008.

On Wednesday, March 4, 2009, an Intelligence Research Specialist (IRS), a DI, and an Investigator from the Virginia Department of Health Professionals interviewed Registrant at his place of employment, Concentra Medical Center ("Concentra") in Richmond, Virginia. Registrant stated that he first learned about Telemed Ventures, L.L.C. ("Telemed") through advertising in May 2008 and that he contacted the company on his own initiative. After speaking with a woman named Ana Goris and providing his curriculum vitae and licensing information, he then spoke with the Medical Director, Dr. John Maye.

During the interview, Registrant stated that he was still working for Telemed. In the interview, he indicated that he would review any medical records submitted by the customer and talk with him, discuss the side effects of the drug being sought, and then authorize the prescription, which he would fax to Telemed Ventures, L.L.C. He further claimed that he could deny the prescription if he chose to.

According to Registrant, customers were required to submit updated records approximately every four to six months, but he did not state what records were required. Registrant stated that he never ordered any medical tests for any of Telemed's customers and that he never independently verified customer records. He further asserted that he would speak with approximately three to nine customers per week and admitted that he never saw the customers in person or evaluated them face-to-face. He also stated that he was paid $25.00 for new patients and $20.00 for returning patients and that he received a check every Friday in payment for the consultations he had done the previous week. Finally, he stated that the majority of the Telemed customers requested hydrocodone.

On November 7, 2009, Registrant entered into a Consent Order with the Virginia Board of Medicine ("the Board"). In its Findings of Fact, the Board determined that Registrant "violated Sections 54.1–2915.A(3),[3] (13),[4] (16)[5] and (17),[6] and Section 54.1–

[2] Ambien is the name brand of generic zolpidem.

[3] Under Virginia law, the Board may discipline a physician, suspend his license or revoke his license for the "unprofessional conduct" of "[i]ntentional or negligent conduct in the practice of any branch of the healing arts that causes or is likely to cause injury to a patient or patients." Va. Code Ann. § 54.1–2915.A(3).

[4] This paragraph makes it unprofessional conduct for a physician to "[c]onduct[] his practice in a manner as to be a danger to the health and welfare of his patients or to the public." Va. Code Ann. § 54.1–2915.A(13).

[5] This paragraph makes it unprofessional conduct for a physician to "[p]erform[] any act likely to deceive, defraud, or harm the public." Va. Code Ann. § 54.1–2915.A(16).

[6] This paragraph makes it unprofessional conduct for a physician to "[v]iolat[e] any provision of statute or regulation, state or federal, relating to the manufacture, distribution, dispensing, or administration of drugs." Va. Code Ann. § 54.1–2915.A(17).

3303.A [7] of the Code, in that from May 2008 to October 2008, he prescribed controlled substances, including hydrocodone * * * and zolpidem * * * to individuals outside of a bona fide practitioner-patient relationship." Consent Order, at 1. According to the Consent Order, "during that time period [Registrant] was employed by Secure Telemedicine, LLC ("Telemed"), a company offering medical services and prescriptions to patients via its Web site, *TopLineRx.com*." *Id.* The Consent Order further indicated that Registrant "stated that he would review medical records and speak with patients by phone prior to issuing a prescription" and that he "prescribed controlled substances to these individuals without seeing these patients in person and without performing any physical examinations on these patients." *Id.* at 1–2.

In its findings, the Board also determined that Registrant "violated Sections 54.1–2915.A(17) and (18),[8] and Section 54.1–111.A(4) [9] of the Code, in that, from approximately October 2008 to March 4, 2009, he dispensed controlled substances in Schedules IV, V, and VI to patients without being licensed by the Board of Pharmacy, as required by Section 54.1–3302 of the Code." *Id.* at 2. The Board further found that "since October 1, 2008, [Registrant] has been employed by Concentra Medical Center * * * in Richmond, Virginia, providing medical care to workers' compensation patients," that he "admits that he has dispensed controlled substances during the course of his employment with Concentra, and states that he was unaware that he was required to have an additional license to do so." [10] *Id.* By the terms of the Consent Order, Registrant received a reprimand, was fined fifteen hundred dollars ($1,500.00), and was required to complete "at least twelve (12) hours of continuing medical education * * * in the subject of proper prescribing." *Id.*

Discussion

Section 304(a) of the Controlled Substances Act ("CSA") provides that a "registration pursuant to section 823 of this title to * * * dispense a controlled substance * * * may be suspended or revoked by the Attorney General upon a finding that the registrant * * * has committed such acts as would make his registration under section 823 of this title inconsistent with the public interest as determined under such section." 21 U.S.C. 824(a)(4). In the case of a practitioner, Congress directed that the following factors be considered in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety. 21 U.S.C. 823(f).

"[T]hese factors are * * * considered in the disjunctive." *Robert A. Leslie,* 68 FR 15227, 15230 (2003). I may rely on any one or a combination of factors and may give each factor the weight I deem appropriate in determining whether to revoke an existing registration or to deny an application. *Id.* Moreover, I am "not required to make findings as to all of the factors." *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA,* 412 F.3d 165, 173–74 (DC Cir. 2005).

While I have considered all five factors, I conclude that it is not necessary to make findings as to factors one, three, and five. As explained below, I conclude that the evidence relevant to Registrant's experience in dispensing controlled substances (factor two) and his compliance with applicable laws related to controlled substance (factor four) establishes that he has committed acts which render his registration "inconsistent with the public interest." 21 U.S.C. 824(a)(4). I will therefore order that his registration be revoked and that any pending application be denied.

Factors Two and Four: Registrant's Experience in Dispensing Controlled Substances and Record of Compliance With Applicable Controlled Substance Laws

Under a longstanding DEA regulation, a prescription for a controlled substance is not effective unless it is issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. 21 CFR 1306.04(a). This regulation further provides that an "order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning and intent of * * * 21 U.S.C. 829 * * * and * * * the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances." *Id. See also* 21 U.S.C. 802(10) (Defining the term "dispense" as meaning "to deliver a controlled substance to an ultimate user * * * by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance.")

As the Supreme Court recently explained, "the prescription requirement * * * ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses." *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *United States* v. *Moore,* 423 U.S. 122, 135, 143 (1975)).

Under the CSA it is fundamental that a practitioner must establish and maintain a bona fide doctor-patient relationship in order to act "in the usual course of * * * professional practice" and to issue a prescription for a "legitimate medical purpose." *Laurence T. McKinney,* 73 FR 43260, 43265 n.22 (2008); *see also Moore,* 423 U.S. at 142–43 (noting that evidence established that physician exceeded the bounds of professional practice "when he gave inadequate physical examinations or none at all," "ignored the results of the tests he did make," and "took no precautions against * * * misuse and diversion."). At the time of the events at issue here, the CSA generally looked to state law to determine whether a doctor and patient have established a bona fide doctor-patient relationship. *See Christopher Henry Lister,* 75 FR 28068,

[7] Similar to the CSA, Virginia law provides that a "prescription for a controlled substance may be issued only by a practitioner of medicine * * * who is authorized to prescribe controlled substances" and that the "prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons * * * with whom the practitioner has a bona fide practitioner-patient relationship." Va. Code Ann. § 54.1–3303.A. The section also provides, in pertinent part, that "a bona fide practitioner-patient relationship means that the practitioner shall * * * (iii) perform or have performed an appropriate examination of the patient, either physically or by means of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically." *Id.*

[8] This paragraph makes it unprofessional conduct to "[v]iolat[e] or cooperat[e] with others in violating any of the provisions of Chapters 1, 24, and this chapter or regulations of the Board." Va. Code Ann. § 54.1–2915.A(18).

[9] This section makes illegal "[p]erforming any act of function which is restricted by statute or regulation to persons holding a professional or occupational license or certification, without being duly certified or licensed." Va. Code Ann. § 54.1–111.A(4).

[10] In the Consent Order, Registrant "neither admit[ted] nor den[ied] the truth of the * * * Findings of Fact, but agree[d] not to contest them in any future proceedings before" the Board. *Id.* at 3. This, however, does not foreclose the Agency from giving weight to these findings.

28069 (2010); *Kamir Garces-Mejia,* 72 FR 54931, 54935 (2007); *United Prescription Services, Inc.,* 72 FR 50397, 50407 (2007).

Under Virginia law, a controlled substance prescription "shall be issued for a medicinal or therapeutic purpose and may be issued only to persons * * * with whom the practitioner has a bona fide practitioner-patient relationship." Va. Code Ann. § 54.1–3303.A. Furthermore, under the statute, "a bona fide practitioner-patient relationship means that the practitioner shall * * * (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically." *Id.*

As found above, Registrant admitted in an interview with agency Investigators that he prescribed controlled substances for Telemed without conducting physical examinations of its customers. Moreover, the record shows that each of the four persons who were interviewed by DEA Investigators, obtained controlled substances from Telemed through prescriptions issued by him, without being physically examined by him, let alone seeing him. The Virginia Board's findings corroborate the various admissions Registrant made in his interview as well as the statements made by T.M., N.N., R.D., and K.H. in their respective interviews. I therefore find that Registrant issued controlled substances to internet patients without physically examining them and that he failed to establish a bona fide doctor-patient relationship with the Telemed customers. I further hold that in prescribing controlled substances to these persons, Respondent lacked a legitimate medical purpose and acted outside of the usual course of professional practice. 21 CFR 1306.04(a). Respondent thus violated both the CSA and Virginia law.

I further find—as did the Virginia Board—that Registrant violated Virginia Code §§ 54.1–2915.A(17) & (18) in that between October 2008 and March 2009, he prescribed controlled substances in Virginia's schedules IV through VI in the State of Virginia without possessing the required license. Consent Order, at 2; *see also Christopher Henry Lister,* 75 FR 28068, 28069 (2010) (citing *University of Tennessee* v. *Elliot,* 478 U.S. 788, 797–98 (1986)). This conduct also violated a DEA regulation. *See* 21 CFR 1306.03(a)(1). I therefore find that Registrant violated both DEA regulation and Virginia law in this regard as well.[11]

In sum, the evidence shows that Registrant has repeatedly violated both Federal and State laws related to the dispensing of controlled substances and has therefore committed acts which render his registration "inconsistent with the public interest." 21 U.S.C. 824(a)(4). Accordingly, Respondent's registrations will be revoked and any pending application to renew or modify either registration will be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. §§ 823(f) & 824(a)(4), as well as 28 CFR 0.100(b) & 0.104, I order that DEA Certificate of Registration FB1499587, issued to Clifton D. Burt, M.D., be, and it hereby is, revoked. I also order the Office of Diversion Control to determine whether Clifton D. Burt, M.D., filed a timely renewal application for DEA Certificate of Registration FB0575499, and if so, order that this registration be, and it hereby is, revoked. I further order that any pending application of Clifton D. Burt, M.D., to renew or modify his registrations, be, and it hereby is, denied. This Order is effective May 11, 2011.

Dated: April 1, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2011–8545 Filed 4–8–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

The Medicine Dropper; Revocation of Registration

On January 29, 2010, I, the then Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and Immediate Suspension of Registration (Order) to The Medicine Dropper (Respondent), of Greenwood, South Carolina. The Order proposed the revocation of Respondent's DEA Certificate of Registration, BT2981214, as a retail pharmacy, and the denial of any pending applications to renew or modify its registration, on the ground that its "continued registration is inconsistent with the public interest." Order, at 1.

More specifically, the Order alleged that, on March 18, 2009, Respondent's owner had entered into a Settlement Agreement with the United States Attorney for the District of South Carolina under which he agreed to a policy "to prevent the use of [his] pharmacy for 'doctor shopping' and [to] provide quarterly reports of all Schedule II controlled substances [it] dispensed." *Id.* at 1–2. The Order also alleged that in the settlement, Respondent's owner "agreed to 'fill prescriptions using the correct DEA number for the physician and [to] ensure that all required elements of the prescriptions are present prior to dispensing,'" as well as to comply with Federal and State laws related to the dispensing of controlled substances. *Id.*

The Order alleged that, after executing the Settlement Agreement, Respondent's owner continued to dispense prescriptions for schedule III controlled substances containing hydrocodone to L.P, even though she submitted similar prescriptions from three different physicians between June and November of 2009. *Id.* With respect to L.P., the Order further alleged that Respondent had "dispensed an excessive amount of hydrocodone," and that "[b]ased on Respondent's own calculations for what constitutes a 'day's supply' of hydrocodone for L.P., Respondent dispensed the equivalent of 709 'day's supplies' during the period between September 22, 2008 and September 1, 2009," and that "[t]his resulted in dispensing more than twice the recommended amount of hydrocodone that L.P. should have received." *Id.*

Next, the Order alleged that in January and February 2009, Respondent distributed Lyrica, a schedule V controlled substance, "to T.M. without a valid prescription in violation of 21 U.S.C. § 841(a)," and that it "also furnished false or fraudulent material information regarding T.M.'s Lyrica prescriptions in violation of 21 U.S.C. § 843(a)(4)(A) and mislabeled T.M.'s Lyrica prescription in violation of 21 CFR 1306.24(a)." *Id.* The Order further alleged that on September 14, 2009, Respondent completed filling a prescription for Dilaudid (hydromorphone), a schedule II controlled substance, which T.M. had presented to it in August 2009, thereby

[11] Under Federal law, because Respondent did not hold a Virginia license to dispense controlled substances, he was not even entitled to hold a DEA registration in the State because he did not meet a statutory prerequisite for obtaining a registration. *See* 21 U.S.C. 802(21) (defining "[t]he term 'practitioner' [as] a physician * * * licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices * * * to dispense * * * a controlled substance in the course of professional practice"); *id.*§ 823(f) ("The Attorney General shall register practitioners * * * to dispense * * * controlled substances * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices."). *See also Jovencio L. Raneses,* 75 FR 11563, 11564 (2010); *Nasim F. Khan,* 73 FR 4630, 4632 (2008).