

[gateway.msbl.ms.gov/verification.results.aspx](http://gateway.msbl.ms.gov/verification.results.aspx) (last visited September 24, 2020).

Accordingly, I find that Registrant currently is not licensed to engage in the practice of medicine in Mississippi the State in which Registrant 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 71,371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27,616, 27,617 (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. 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 71,371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 FR at 27,617.

According to Mississippi statute, “no controlled substance in Schedule II . . . may be dispensed without the written prescription of a practitioner,” and “except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV . . . shall not be dispensed without a written or oral valid prescription of a practitioner.” Miss. Code Ann. § 41–29–137(a)(1) and (a)(2) (West 2020). Further, “a practitioner” is defined as “a physician, dentist, veterinarian, scientific investigator, optometrist . . . 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.” Miss. Code Ann. § 41–29–105(y)(1) (West 2020). Mississippi regulations define a “physician” to be “any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.” 30–2640 Miss. Code R. § 1.2(C). The regulations further state that “‘prescriptive authority’ means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.” 30–2640 Miss. Code R. § 1.2(F).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Mississippi. As already discussed, a physician must be a licensed to practice medicine to have prescriptive authority for a controlled substance in Mississippi. Thus, because Registrant lacks authority to practice medicine in Mississippi and, therefore, is not authorized to prescribe controlled substances in Mississippi, Registrant is not eligible to maintain a DEA registration. Accordingly, I 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. FC8151475 issued to Jacqueline G. Curtis, M.D. This Order is effective November 6, 2020.

**Timothy J. Shea**,

*Acting Administrator.*

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**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Stacey Lynne Schirmer, M.D.; Decision and Order

On February 14, 2020, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Stacey Lynne Schirmer, M.D. (hereinafter, Applicant), of Angels Camp, California. Order to Show Cause (hereinafter, OSC), at 1. The OSC proposed the denial of Applicant’s application for a DEA Certificate of Registration. It alleged that Applicant is without “authority to handle controlled substances in California, the state in which [Applicant] seek[s] registration with DEA.” *Id.* (citing 21 U.S.C. 823(f) and 824(a)(3)).

Specifically, the OSC alleged that the Medical Board of California (hereinafter, Board) issued a Cease Practice Order on January 7, 2020, which prohibits Applicant from “engaging in the practice of medicine.” *Id.* at 1–2. The OSC further alleged that, because Applicant’s California medical license is suspended, Applicant lacks the authority to handle controlled substances in California, and is, therefore, ineligible to obtain a DEA registration. *Id.* at 2.

The OSC notified Registrant of the right to either request a hearing on the allegations or submit a written statement in lieu of exercising 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 Registrant of the opportunity to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. 824(c)(2)(C)).

A DEA Diversion Investigator personally served Applicant with the OSC on May 21, 2020. Government’s Request for Final Agency Action Exhibit (hereinafter, RFAAX) 9, at 3 (Declaration of Diversion Investigator); RFAAX 5 at 1 (Service Receipt). I find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government’s written representations, I find that neither Applicant, nor anyone purporting to represent Applicant, requested a hearing, submitted a written statement while waiving Applicant’s right to a hearing, or submitted a corrective action plan. *Id.*; RFAAX 6. Accordingly, I find that Applicant has waived the right to a hearing and the right to submit a written statement and

corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.46.

### I. Findings of Fact

#### A. Applicant's Application for a DEA Registration

On October 18, 2019,<sup>1</sup> Applicant submitted an application for DEA registration as a practitioner seeking authorization to handle controlled substances in schedules IIN, IIIN, IV, and V. RFAAX 1–2. Applicant's proposed DEA registered address is P.O. Box 939, Angels Camp, California 95222. *Id.* Applicant is the former holder of DEA Certificate of Registration No. BH5379549, which she voluntarily surrendered on September 27, 2011. RFAAX 2, at 1.

#### B. The Status of Applicant's State License

Applicant has been the holder of California Physician's and Surgeon's Certificate No. A 62148 (hereinafter, medical license). RFAAX 3, at 1 (Cease Practice Order). On August 9, 2019, the Medical Board of California placed Applicant's license on a five-year probation subject to certain terms and conditions. *Id.*

On January 7, 2020, the Medical Board of California issued a Cease Practice Order with respect to Applicant's medical license. *Id.* According to the Cease Practice Order, Applicant failed to obey the probationary conditions that were placed on her medical license by the Board on August 9, 2019. *Id.* The Board, therefore, issued the Cease Practice Order prohibiting Applicant from "engaging in the practice of medicine." *Id.* The Cease Practice Order further stated that Applicant "shall not resume the practice of medicine until a final decision has been issued on an accusation and/or petition to revoke probation filed pursuant to this matter." *Id.* at 1–2.

The online records of the California Department of Consumer Affairs, of which I take official notice, state that Applicant's medical license is suspended.<sup>2</sup> <https://search.dca.ca.gov/>

<sup>1</sup> The OSC incorrectly cited October 21, 2019, as the submission date for Applicant's application for a DEA registration. I find this error to be a scrivener's error.

<sup>2</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

*results* (last visited September 24, 2020). The records further state that Applicant is prohibited from "ordering, prescribing, dispensing, administering, furnishing, or possessing" any controlled substances. *Id.*; RFAAX 8, at 1 (Medical Board of California, Online Licensing Details for Physician's and Surgeon's Certificate No. A 62148, dated June 24, 2020).

Accordingly, I find that Applicant is currently without authorization to dispense controlled substances in California, the state in which Applicant has applied for registration with DEA.

### II. Discussion

With respect to a practitioner, DEA has 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 71,371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27,616, 27,617 (1978); *see also* 21 U.S.C. 824(a)(3) (authorizing revocation "upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances"). 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

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, Applicant may dispute my finding by filing a properly supported motion for reconsideration within fifteen calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Applicant files a motion, the Government shall have fifteen calendar days to file a response. Any such motion and response may be filed and served by email ([dea.addo.attorneys@dea.usdoj.gov](mailto:dea.addo.attorneys@dea.usdoj.gov)).

the State in which he practices." 21 U.S.C. 823(f).

Here, the undisputed evidence in the record is that Applicant currently lacks authority to dispense controlled substances in California, the state in which she seeks registration. Because Applicant lacks authority to dispense controlled substances in California, she is not eligible for DEA registration in California. Accordingly, I will order that Applicant's application for a DEA registration be denied.

### III. Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny the application of Stacey Lynne Schirmer for a DEA Certificate of Registration in California. This Order is effective November 6, 2020.

**Timothy J. Shea,**

*Acting Administrator.*

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## DEPARTMENT OF JUSTICE

### Notice of Task Force on Research on Violence Against American Indian and Alaska Native Women Meeting

**AGENCY:** Office on Violence Against Women, United States Department of Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** The Office on Violence Against Women (OVW), U.S. Department of Justice has scheduled a meeting of the Task Force on Research on Violence Against American Indian and Alaska Native Women (hereinafter "the Task Force").

**DATES:** The meeting will take place on October 22, 2020 from 1:00 p.m. to 5:00 p.m. (Eastern Standard Time).

**ADDRESSES:** This meeting will be a virtual meeting.

**FOR FURTHER INFORMATION CONTACT:** Visit the OVW website at <https://www.justice.gov/ovw/section-904-task-force> or contact Sherriann Moore, Deputy Director of Tribal Affairs, Office on Violence Against Women, United States Department of Justice, at (202) 616–0039 or [ovw.tribalaffairs@usdoj.gov](mailto:ovw.tribalaffairs@usdoj.gov).

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. Title IX of the Violence Against Women Act of 2005 (VAWA 2005), as amended, required the Attorney General to establish a Task Force to assist the National Institute of