Specifically, AMTE Power, Ltd., Caithess, UNITED KINGDOM, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and EVESE intends to file additional written notifications disclosing all changes in membership.

On September 24, 2020, EVESE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 15, 2020 (85 FR 65423).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2020–25578 Filed 11–18–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CHEDE–8

Notice is hereby given that, on October 20, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CHEDE–8 (''CHEDE–8'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, PACCAR, Inc., Mount Vernon, WA; DAF Trucks, N.V., Eindhoven, NETHERLANDS; and A&D Technology, Inc., Ann Arbor, MI, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CHEDE–8 intends to file additional written notifications disclosing all changes in membership.

On December 4, 2019, CHEDE–8 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 2019 (84 FR 71977).

The last notification was filed with the Department on September 11, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 15, 2020 (85 FR 65426).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2020–25584 Filed 11–18–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Border Security Technology Consortium

Notice is hereby given that, on October 21, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Border Security Technology Consortium (''BSTC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Willowview Consulting, LLC, Eagle, ID; CUBRC, Inc., Buffalo, NY; Secure Planet, Inc., Arlington, VA; Integrated Biometrics, LLC, Spartanburg, SC; AnaVation, LLC, Reston, VA; Arcturus UAV, Inc., Petaluma, VA; Planck Aerosystems, Inc., San Diego, CA; Cross Domain Systems, Medford, MA; ThayerMahan, Groton, CT; Liberty Consulting Solutions, Toms River, NJ; Land Sea Air Autonomy, LLC, Finksburg, MD; Mobilestack Inc., Dublin, CA; Saildrone Inc., Alameda, CA; Spatial Integrated Systems, Inc., Virginia Beach, VA; PredaSAR Corporation, Boca Raton, FL; Cervello Technologies, LLC, Clearwater, FL; and Controp USA Inc., Lanham, MD have been added as parties to this venture.

Also, Blue Force Consulting, Westminster, MD; Border Solutions Group, Fabius, NY; Chartis Consulting Corporation, Falls Church, VA; General Dynamics C4 Systems, Scottsdale, AZ; Guidepost Solutions, LLC, New York, NY; Mason Livesay Scientific dba IB3 Global Solutions, Oak Ridge, TN; Motorola Solutions, Inc, Linthicum Heights, MD; Perfect Sense, Inc., Reston, VA; TransCore ITS, LLC, Harrisburg, PA; TriaSys Technologies Corporation, N. Billerica, MA; and Zolon Tech, Inc., Herndon, VA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and BSTC intends to file additional written notifications disclosing all changes in membership.

On May 30, 2012, BSTC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 18, 2012 (77 FR 36292).

The last notification was filed with the Department on May 19, 2020. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 8, 2020 (85 FR 34765).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2020–25592 Filed 11–18–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 20–18]

Lewis Leavitt III, M.D.; Decision and Order

On March 11, 2020, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Lewis Leavitt III, M.D. (hereinafter, Respondent) of Houston, Texas. OSC, at 1. The OSC proposed the revocation of Respondent's Certificate of Registration No. AL1308370. *Id.* It alleged that Respondent is without ''authority to handle controlled substances in Texas, the state in which [Respondent is] registered with DEA.'' *Id.* at 1–2.

Specifically, the OSC alleged that on January 6, 2020, the Texas Medical Board (hereinafter, Board) suspended Respondent's medical license, which also expired on February 28, 2020. *Id.* The OSC therefore alleged that Respondent lacks authority to handle controlled substances in Texas. *Id.* (citing 21 U.S.C. 824(a)(3)).

The OSC notified Respondent of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The OSC also notified Respondent of the opportunity to

submit a corrective action plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

By letter dated April 10, 2020, Respondent timely requested a hearing.[1] Hearing Request, at 1. In the Hearing Request, Respondent stated that he ''expects to prevail in the Texas Medical Board proceedings that are pending.'' *Id.*

The Office of Administrative Law Judges put the matter on the docket and assigned it to Administrative Law Judge Mark M. Dowd (hereinafter, ALJ). The ALJ issued an Order for Prehearing Statements, dated April 13, 2020. The Government timely complied with the Briefing Schedule by filing a Motion for Summary Disposition on April 22, 2020, (hereinafter, Government Motion or Govt Motion). In its Motion, the Government submitted evidence that Respondent's Texas medical license had been suspended and that he therefore lacked authority to handle controlled substances in Texas, the state in which he is registered with DEA. Govt Motion, at 1. In light of these facts, the Government argued that DEA must revoke his registration. Govt Motion, at 3.

On May 1, 2020,[2] Respondent, requested that the revocation action be suspended until the Board made a final decision on the temporary suspension. Respondent's Prehearing Statement, at 1.

On May 6, 2020, the ALJ issued an Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Recommended Decision of the Administrative Law Judge (hereinafter, Summary Disposition or SD). In the Summary Disposition, the ALJ denied Respondent's request for a stay of the proceedings until the Texas Medical Board had concluded its proceedings.[3] SD, at 4–5. The ALJ noted that, ''even though the Respondent was actively engaged in negotiating or appealing a State Board decision, '[i]t is not DEA's policy to stay [administrative] proceedings . . . while registrants litigate in other forums.' '' SD, at 5 (citing *Newcare Home Health Servs.,* 72 FR 42,126, 42,127 n.2 (2007)). The ALJ then granted the Government Motion for Summary Disposition. *Id.* The ALJ found that ''summary disposition of an administrative case is warranted where, as here, 'there is no factual dispute of substance.' '' SD, at 7 (citing *Veg-Mix, Inc.* v. *U.S. Dep't of Agric.,* 832 F.2d 601, 607 (D.C. Cir. 1987) (''[A]n agency may ordinarily dispense with a hearing when no genuine dispute exists.'' (citations omitted))). By letter dated June 15, 2020, the ALJ certified and transmitted the record to me for final Agency action. In that letter, the ALJ advised that neither party filed exceptions. I find that the time period to file exceptions has expired. *See* 21 CFR 1316.66.

I issue this Decision and Order based on the entire record before me. 21 CFR 1301.43(e). I make the following findings of fact.

Findings of Fact

Respondent's DEA Registration

Respondent is the holder of DEA Certificate of Registration No. AL1308370 at the registered address of 1900 Yorktown Street, Apartment 728, Houston, Texas 77056. Govt Motion Exhibit (hereinafter, GX) 1, at 1. Pursuant to this registration, Respondent is authorized to dispense controlled substances in schedules II through V as a ''practitioner.'' *Id.* Respondent's registration expires on March 31, 2021, and is currently in ''active pending status.'' *Id.*

The Status of Respondent's State License

On January 6, 2020, the Texas State Medical Board issued an Order of Temporary Suspension (hereinafter, Board Order) without notice of hearing to Respondent ''effective on the date rendered.'' GX 2 (Board Order), at 5–6. According to the Board Order, Respondent ''engaged in unprofessional and dishonorable conduct'' and ''also engaged in the non-therapeutically prescribing of opioids and a muscle relaxant, carisprodol, to multiple patients.'' *Id.* The Board found that Respondent's ''continuation in the practice of medicine would constitute a continuing threat to the public welfare.'' *Id.* at 5.

According to Texas's online records, of which I take official notice, Respondent's registration status is ''delinquent-non payment'' and his disciplinary status is ''suspended by board.'' [4] Texas Medical Board Healthcare Provider Search, *https://public.tmb.state.tx.us/HCP_Search/SearchNotice.aspx* (last visited October 27, 2020).

Based on the entire record before me, I find that Respondent currently is not licensed to engage in the practice of medicine in Texas, the state in which Respondent 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 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[5] 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.

[1] The Hearing Request was deemed filed on April 10, 2020. Order for Prehearing Statements, at 1. I, thus, find that the Government's service of the OSC was adequate.

[2] Respondent submitted a ''Motion to Accept Late Filed Prehearing Statement,'' which noted that the prehearing statement was emailed a few hours after the deadline set by the ALJ and requested that it be accepted nonetheless. The ALJ found, and I agree, that ''neither party [would] be unduly prejudiced by acceptance of the Respondent's out-of-time Prehearing Statement.'' Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Recommended Decision of the Administrative Law Judge, at 3 n.1.

[3] I find no error in the ALJ's decision to continue DEA's proceedings.

[4] 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, Respondent may dispute my 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 shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Respondent files a motion, the Government shall have fifteen calendar days to file a response. Any motion and response shall be filed and served by email to the other party and to the Office of the Administrator at *dea.addo.attorneys@dea.usdoj.gov.*

[5] ''[D]ispense[ ] means 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 . . . .'' 21 CFR 802(10).

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.

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 state,'' *Hooper,* 76 FR at 71,371 (quoting *Anne Lazar Thorn,* 62 FR 12,847, 12,848 (1997)), the Agency has long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy,* 72 FR 18,273, 18,274 (2007); *Wingfield Drugs,* 52 FR 27,070, 27,071 (1987). Thus, it is of no consequence that the action is being appealed. What is consequential is my finding that Respondent is no longer currently authorized to dispense controlled substances in Texas, the state in which he is registered.

Under the Texas Controlled Substances Act, a practitioner in Texas ''may not prescribe, dispense, deliver, or administer a controlled substance or cause a controlled substance to be administered under the practitioner's direction and supervision except for a valid medical purpose and in the course of medical practice.'' Tex. Health and Safety Code Ann. § 481.071 (West 2019). The Texas Controlled Substances Act defines ''practitioner,'' in relevant part, as ''a physician . . . licensed, registered, or otherwise permitted to distribute, dispense, analyze, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.'' *Id.* at § 481.002 (39)(A). Further, under the Texas Medical Practice Act, a person must hold a license to practice medicine in Texas. Tex. Occupations Code Ann. § 155.001 (West 2019) (''A person may not practice medicine in this state unless the person holds a license issued under [the Medical Practice Act].''); *see also id.* at § 151.002 (''Physician' means a person licensed to practice medicine in this state.''). Additionally, ''[a] person commits an offense if the person practices medicine in [Texas] in violation of'' the Act. *Id.* at § 165.152(a).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to practice medicine in Texas. I, therefore, find that Respondent is currently without authority to dispense controlled substance in Texas, the state in which he is registered with DEA, and I 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. AL1308370 issued to Lewis Leavitt III, 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 application of Lewis Leavitt III, M.D. to renew or modify this registration, as well as any other application of Lewis Leavitt III, M.D. for additional registration in Texas. This Order is effective December 21, 2020.

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–25521 Filed 11–18–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket Nos. 17–09 and 17–10]

Suntree Pharmacy and Suntree Medical Equipment, LLC; Decision and Order

I. Procedural History

On October 5, 2016, a former Assistant Administrator for Diversion Control of the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Suntree Pharmacy (hereinafter, Respondent Pharmacy) and Suntree Medical Equipment LLC (hereinafter, Respondent LLC) (hereinafter collectively, Respondents), of Melbourne, Florida. Administrative Law Judge (hereinafter, ALJ) Exhibit (hereinafter, ALJX) 1, (OSC) at 1. The OSC proposed the revocation of and denial of any pending application to modify or renew Respondents' Certificates of Registration Nos. BS7384174 and FS2194289 ''pursuant to 21 U.S.C. 823(f) and 824(a)(4) for the reason that [Respondents'] continued registrations are inconsistent with the public interest, as that term is defined in 21 U.S.C. 823(f).'' *Id.*

Specifically, the OSC alleged that ''over the course of the seventeen month period from October 2013 through March 2015, [Respondents'] pharmacists filled over 200 controlled substances prescriptions outside the usual course of pharmacy practice in violation of 21 CFR 1306.06, and in contravention of their 'corresponding responsibility' under 21 CFR 1306.04(a).'' OSC, at 2. The OSC further alleged that Respondent Pharmacy's failure to exercise its corresponding responsibility was evidenced by its ''repeatedly fill[ing] controlled substance prescriptions that contained multiple red flags of diversion and/or abuse without addressing or resolving those red flags, and under circumstances indicating that the pharmacists were willfully blind or deliberately ignorant of the prescriptions' illegitimacy.'' *Id.* (citing *JM Pharmacy Group, Inc., d/b/a Farmacia Nueva and Best Pharma Corp.,* 80 FR 28,667, 28,670 (2015)). The OSC listed seven red flags of diversion that Respondent Pharmacy allegedly did not resolve prior to filling prescriptions and listed twenty-two [1] patients whose prescriptions indicated red flags. *Id.* at 4, 5–9. Furthermore, the OSC alleged that Respondent Pharmacy was dispensing controlled substances to a physician who wrote prescriptions to himself in violation of Florida law and violated federal law in dispensing controlled substances to an office. *Id.* at 4 (citing Fla. Stat. § 458.331(1)(r) and 21 CFR 1306.04(b)).

The OSC alleged additional violations of Florida state law including: Title XLVI, Fla. Stat., Ch. 893.04(2)(a) (requiring a pharmacist filling a prescription to determine ''in the exercise of her or his professional judgment, that the order is valid''); Fla. Bd. of Pharm. Rule 64B16–21.810(1) (requiring a pharmacist to review the patient record before filling a new or refilling a prescription for therapeutic appropriateness); Fla. Administrative Rule 64B16–27.800 (requiring the maintenance of retrievable records including '''[p]harmacist comments relevant to the individual's drug therapy''' and '''any related information

[1] The OSC listed allegations related to three patients, R.A., A.B., and E.A., which the Government withdrew during the hearing ''to save time.'' Tr. 689.