lack of state authority that this Decision adjudicates.

Findings of Fact

The record contains uncontroverted evidence that, on February 28, 2023, Respondent's Florida pharmacy license expired. *See, e.g.,* Second MSD, at 1. According to Florida online records, of which the Agency takes official notice, Respondent's pharmacy license is ''delinquent.'' [6] *https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders* (last visited date of signature of this Order). Respondent, therefore, ''is not authorized to practice in the state of Florida.'' *Id.*

Accordingly, the Agency finds that Respondent is currently without authority to operate as a pharmacy in Florida. *See supra* n.6.

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, 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).[7]

Here, the undisputed record evidence is that Respondent currently lacks authority to operate a pharmacy in Florida. Respondent, therefore, is not a ''practitioner'' under federal law. 21 U.S.C. 802(21) (''The term ''practitioner'' means a . . . pharmacy''). The CSA provides for the issuance of a registration to ''practitioners.'' 21 U.S.C. 823(g). It explicitly provides for the revocation of a registration issued to an entity whose ''State license'' has been ''suspended, revoked, or denied by competent State authority.'' 21 U.S.C. 824(a)(3). For these reasons, Respondent is not eligible under the CSA to maintain a DEA registration in Florida. Accordingly, the Agency orders 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. AW0201474 issued to Weise Pharmacy Shop Inc. 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 Weise Pharmacy Shop Inc. to renew or modify this registration, as well as any other pending application of Weise Pharmacy Shop Inc. for additional registration in Florida. This Order is effective September 13, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on August 7, 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. 2023–17389 Filed 8–11–23; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–16]

Olga Wildfeuer, M.D.; Decision and Order

On November 21, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Olga Wildfeuer, M.D. (Respondent). OSC, at 1–3. The OSC proposed the revocation of Respondent's registration [1] because Respondent is ''without authority to handle controlled substances in the State of New York, the state in which [she is] registered with DEA.'' *Id.* at 2.

Respondent timely requested a hearing; thereafter, the Administrative Law Judge (ALJ) granted a Motion for Summary Disposition recommending the revocation of Respondent's registration. 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 (RD), at 7. 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.

According to the record transmitted to the Office of the Administrator after remand, Respondent did not oppose the Second MSD. Second RD, at n.3.

The Government's filings included material concerning its First MSD, particularly Mr. Weise, Jr.'s felony conviction.

[6] 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 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.*

''Delinquent,'' according to the website, means that, pursuant to ''Chapter 456 F.S.—the licensed practitioner who held a CLEAR ACTIVE or CLEAR INACTIVE license, but failed to renew the license by the expiration date. The licensed practitioner is not authorized to practice in the state of Florida. The practitioner is obligated to update his/her profile data.''

[7] 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 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, Pub. L. 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 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.

[1] Certificate of Registration No. BW2841446 at the registered address of 1400 5th Ave., Apt. 7R, New York, New York 10026. *Id.* at 1.

Findings of Fact

On July 22, 2021, Respondent signed a voluntary agreement with the New York State Board for Professional Medical Conduct (the Board),[2] which permanently precluded her from ''ordering, prescribing, administering, distributing and/or dispensing controlled substances.'' RD, at 4; *see also* Govt Motion for Summary Disposition, Exhibit A, at 4. According to New York online records, of which the Agency takes official notice,[3] Respondent is registered to practice medicine. New York State Office of the Professions Verification Search, *https://www.op.nysed.gov/verification-search* (last visited date of signature of this Order). But, the Board ''permanently limited'' her medical license ''to preclude [her] ordering, prescribing, administering, distributing and/or dispensing of controlled substances.'' New York Department of Health Professional Misconduct and Physician Discipline, *https://apps.health.ny.gov/pubdoh/professionals/doctors/conduct/factions/HomeAction.action* (last visited date of signature of this Order). Moreover, Respondent must refer any patient for whom controlled substances may be needed to another physician. *Id.* Accordingly, the Agency finds that Respondent is not currently authorized to engage in the ordering, prescribing, administering, distributing and/or dispensing of controlled substances in the state of New York, 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[4] 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, ''[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 3304 (2023). Further, New York 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 § 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, 80.64 (2023).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to prescribe controlled substances in New York. RD, at 5. Thus, because Respondent lacks authority to prescribe controlled substances in New York, Respondent is not eligible to maintain a DEA registration. *Id.,* at 6. Accordingly, the Agency orders 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. BW2841446, issued to Olga Wildfeuer, 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 Olga Wildfeuer, M.D., to renew or modify this registration, as well as any other pending application of Olga Wildfeuer, M.D., for additional registration in New York. This Order is effective September 13, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on August 7, 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. 2023–17382 Filed 8–11–23; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Stephen K. Jones, M.D.; Decision and Order

On February 6, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Stephen K. Jones, M.D. (Respondent). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 3. The OSC proposed the revocation of Respondent's Certificate of Registration No. FJ1057430 at the registered address

[2] The agreement was effective August 18, 2021. Govt Motion for Summary Disposition, Exhibit C, at 1.

[3] 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 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.*

[4] As such, the Agency finds Respondent's arguments regarding the permissive nature of 21 U.S.C. 824(a)(3), *see* Resp Opposition to Summary Disposition, at 7, to be unavailing. RD at 4–5; *see also Bhanoo Sharma, M.D.,* 87 FR 41355, 41356 n.4 (2022).

[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 § 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Pub. L. 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 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 27617.