substances; assess and monitor the patient's risk for aberrant drug-related behavior; and maintain accurate, current, complete, and accessible records. Fla. Stat. 456.44; Fla. Admin. Code Ann. r. 64B8–9.013. Additionally, Florida state law requires that prescriptions ''must be signed by the prescribing practitioner on the day when issued.'' Fla. Stat. 456.42(1).

Here, the record demonstrates that Registrant issued at least 83 prescriptions for controlled substances in the names of two deceased individuals, as well as pre-signed at least 18 prescriptions for controlled substances. As discussed above, such conduct is in clear violation of Florida state law and thus renders Registrant's prescribing outside the usual course of professional practice. As such, the Agency sustains the Government's allegations that Registrant violated 21 CFR 1306.04(a), 1306.05(a); Florida Statutes 456.44 and 456.2(1); and Florida Administrative Code Rule 64B8–9.013.

In sum, the Agency finds that Factors B and D weigh in favor of revocation of Registrant's registration and thus finds, after considering the factors set forth in 21 U.S.C. 823(g)(1), Registrant's continued registration to be inconsistent with the public interest.

III. Sanction

Where, as here, the Government has established grounds to revoke Registrant's registration, the burden shifts to the registrant to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.,* 83 FR 18882, 18910 (2018). When a registrant has committed acts inconsistent with the public interest, he must both accept responsibility and demonstrate that he has undertaken corrective measures. *Holiday CVS, L.L.C., dba CVS Pharmacy Nos 219 and 5195,* 77 FR 62316, 62339 (2012). Trust is necessarily a fact-dependent determination based on individual circumstances; therefore, the Agency looks at factors such as the acceptance of responsibility, the credibility of that acceptance as it relates to the probability of repeat violations or behavior, the nature of the misconduct that forms the basis for sanction, and the Agency's interest in deterring similar acts. *See, e.g., Robert Wayne Locklear, M.D.,* 86 FR 33738, 33746 (2021).

Here, Registrant did not request a hearing, submit a corrective action plan, respond to the OSC/ISO, or otherwise avail herself of the opportunity to refute the Government's case. As such, Registrant has made no representations as to her future compliance with the CSA nor demonstrated that she can be entrusted with registration. Moreover, the Agency has found that Registrant is ineligible to maintain a DEA registration and that the evidence presented by the Government clearly shows that Registrant violated the CSA. *See supra* at II. Accordingly, the Agency orders the revocation of Registrant's registration.

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. MR4236584 issued to Debora Ryder, N.P. 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 Debora Ryder, N.P., to renew or modify this registration, as well as any other pending application of Debora Ryder, N.P., 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. 2023–17383 Filed 8–11–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–23]

Yogeshwar Gill, M.D.; Decision and Order

On December 19, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Yogeshwar Gill, 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 Tennessee, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Respondent timely [2] requested a hearing; thereafter, the Government filed and the CALJ granted a Motion for Summary Disposition recommending the revocation of Respondent's registration. RD, at 9–10. Respondent did not timely file exceptions to the RD.[3] Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the CALJ's rulings, findings of fact, conclusions of law, and recommended sanction and summarizes and expands upon portions thereof herein.

Findings of Fact

On May 25, 2022, the Tennessee Board of Medical Examiners issued an Order of Summary Suspension that suspended Respondent's Tennessee medical license. RD, at 7; *see also* Government's Notice of Filing of Evidence and Motion for Summary Disposition, Exhibit 1, Attachment A, at 1, 6–7. According to Tennessee online records, of which the Agency takes official notice, Respondent's restricted Tennessee medical license expired on

[1] Certificate of Registration No. FG1060603 at the registered address of 1034 McArthur Street, Manchester, Tennessee 37355. *Id.* at 1.

[2] Respondent's Request for Hearing is dated February 17, 2023, *see* Request for Hearing, at 1, but was deemed filed on February 21, 2023. The Government asserted that Respondent's Request for Hearing was untimely. Govt Termination Motion dated February 24, 2023, at 1–2. Ultimately, the Chief Administrative Law Judge (CALJ) found, and the Agency agrees, that ''resolution of this matter is not imperative to issue a recommended decision'' and ''assumed, without deciding[,] that the service ambiguity raised by the Respondent either adjust[ed] the OSC service date to render the [Request for Hearing] timely, or supplie[d] sufficient good cause to consider a late-filed [Request for Hearing].'' 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 (Recommended Decision or RD), at 4–5.

[3] On April 28, 2023, after the deadline to file exceptions passed and the CALJ certified the record to the Administrator, Respondent submitted a pleading entitled ''Motion to Alter and Amend'' (Respondent's Motion). *See* 21 CFR 1316.66(a), 1316.67. Respondent's Motion requests that the CALJ ''amend his ruling and merely order an ongoing suspension until the [underlying state] case is heard on its merits.'' Respondent's Motion, at 1, 4. As such, Respondent's Motion appears to be an untimely attempt to file exceptions to the RD. Further, even if Respondent's Motion had been timely submitted, it merely reiterates arguments raised by Respondent in earlier filings that were addressed by the CALJ. *See* RD, at 8–9; *see also infra* at n.5. Accordingly, the Agency finds Respondent's Motion to be unpersuasive.

August 31, 2022.[4] Tennessee Department of Health License Verification, *https://apps.health.tn.gov/licensur*e (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not licensed to practice medicine in Tennessee, the state in which he 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 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 Tennessee 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.'' Tenn. Code Ann. section 39–17–402(7) (2023). Further, a ''practitioner'' means ''a physician . . . 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.'' *Id.* at section 39–17–402(23)(A).

Here, the undisputed evidence in the record is that Respondent lacks authority to practice medicine in Tennessee. RD, at 7. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in Tennessee. Thus, because Respondent lacks authority to practice medicine in Tennessee and, therefore, is not authorized to handle controlled substances in Tennessee, Respondent is not eligible to maintain a DEA registration. RD, at 9. 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. FG1060603 issued to Yogeshwar Gill, 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 Yogeshwar Gill, M.D., to renew or modify this registration, as well as any other pending application of Yogeshwar Gill, M.D., for additional registration in Tennessee. 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. 2023–17391 Filed 8–11–23; 8:45 am]

BILLING CODE 4410–09–P

[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 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.*

[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, 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 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. 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 [S]tate,'' *Hooper,* 76 FR 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that Respondent is still challenging the underlying action here, *see* Respondent's Answer, at 2–3; *see also* Respondent's Supplemental Response, at 5–6. What is consequential is the Agency's finding that Respondent is not currently authorized to dispense controlled substances in Tennessee, the state in which he is registered with DEA.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On August 8, 2023, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Mexico in the lawsuit entitled *United States of America and New Mexico Environment Department* v. *Mewbourne Oil Company,* Civil Action No. 23–cv–00654.

In this action, the United States, on behalf of the U.S. Environmental Protection Agency, and the New Mexico Environment Department filed a complaint alleging that Mewbourne Oil Company (''Defendant'') violated the Clean Air Act, the New Mexico Air Quality Control Act, their implementing regulations, and the Texas State Implementation Plan at 104 of Defendant's oil and natural gas production facilities in New Mexico and Texas by failing to comply with requirements of the federal New Source Performance Standards set forth at 40 CFR part 60, subpart OOOO and OOOOa; failing to submit a Notice of Intent and to register for the NMED's Air Quality Bureau General Construction Permit for Oil and Gas Facilities (''GCP'') as required by New Mexico regulations; failing to apply for a Title V Operating Permit; and failing to operate in accordance with provisions of the GCP and the Texas Commission on Environmental Quality Permit by