F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[6]

According to South Carolina statute, ''[e]very person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, shall obtain a registration issued by the [Department of Health and Environmental Control] in accordance with its rules and regulations.'' S.C. Code section 44–53–290(a) (2024). Further, ''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 the delivery.'' *Id.* section 44–53–110(15).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to dispense controlled substances in South Carolina because her South Carolina controlled substance registration is expired. As discussed above, an individual must hold a controlled substance registration to dispense a controlled substance in South Carolina. Thus, because Respondent lacks authority to handle controlled substances in South Carolina, Respondent is not eligible to maintain a DEA registration. RD, at 6. Accordingly, the Agency 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. BB9937624 issued to Traesa A. Brown, 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 Traesa A. Brown, M.D., to renew or modify this registration, as well as any other pending application of Traesa A. Brown, M.D., for additional registration in South Carolina. This Order is effective May 6, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 1, 2024, 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. 2024–07237 Filed 4–4–24; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–63]

Ralph Reach, M.D.; Decision And Order

On August 30, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Ralph Reach, M.D. (Respondent). OSC, at 1, 4. The OSC proposed the revocation of Respondent's DEA Certificates of Registration Nos. FR0673548 and FR0004589 at the registered addresses of 142 Mall Church Road, Cedar Bluff, Virginia 24609 and 102 North Broadway Street, Johnson City, Tennessee 37601, respectively. *Id.* at 1. The OSC alleged that Respondent's DEA registrations should be revoked because Respondent is ''without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Tennessee and the Commonwealth of Virginia, the jurisdictions in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

On September 14, 2023, Respondent requested a hearing. On September 27, 2023, the Government filed a Motion for Summary Disposition, which Respondent opposed. On November 7, 2023, Administrative Law Judge Teresa A. Wallbaum (the ALJ) granted the Government's Motion for Summary Disposition and recommended the revocation of Respondent's registration, finding that because Respondent lacks state authority to handle controlled substances in Tennessee and Virginia, the states in which he is registered with DEA, ''[t]here is no genuine issue of material fact in this case.'' 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. On November 9, 2023, Respondent filed a document titled ''Notice of Appeal'' [1] in response 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 as found in the RD and summarizes and expands upon portions thereof herein.

Findings of Fact

Effective June 30, 2023, the Tennessee Department of Health revoked Respondent's Tennessee medical license. RD, at 5.[2] Further, effective July 6, 2023, the Virginia Department of Health Professions suspended Respondent's Virginia medical license. *Id.*[3]

According to Tennessee and Virginia online records, of which the Agency takes official notice, Respondent's Tennessee medical license remains revoked and Respondent's Virginia medical license remains suspended.[4]

[6] 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 27,617.

[1] The document blankly asserts that that Respondent appeals the RD without explaining the basis therefor or otherwise identifying his exceptions to the RD pursuant to 21 CFR 1316.66. *See* Respondent's Notice of Appeal.

[2] *See also* Government's Notice of Filing of Evidence and Motion for Summary Disposition, Exhibit (GX) 3, at 1.

[3] *See also* GX 1, at 1–2.

[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

Tennessee Department of Health License Verification, *https://apps.health.tn.gov/Licensure/* default.aspx (last visited date of signature of this Order); Virginia Department of Health Professions License Lookup, *https://dhp.virginiainteractive.org/*lookup (last visited date of signature of this Order).

Accordingly, the Agency finds that Respondent is not currently licensed to practice medicine in either Tennessee or Virginia, the states in which he is registered with the DEA.[5]

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[6] for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371, 71372 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[7]

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''; 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 [the] state.'' Tenn. Code Ann. § 39–17–402(7), (23)(A) (West 2024). Similarly, under Virginia statute, ''dispense'' means ''to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery''; a ''practitioner'' means a ''physician . . . or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the [state].'' Va. Code Ann. § 54.1–3401 (West 2023).

Here, the undisputed evidence in the record is that Respondent lacks authority to practice medicine in both Tennessee and Virginia. As discussed above, in both Tennessee and Virginia, a physician must be a licensed practitioner to dispense a controlled substance. Thus, because Respondent lacks authority to practice medicine in both Tennessee and Virginia and, therefore is not authorized to handle controlled substances in either Tennessee or Virginia, Respondent is not eligible to maintain a DEA registration in those states. RD, at 6–7. Accordingly, the Agency will order the Respondent's DEA registrations 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 Certificates of Registration Nos. FR0673548 and FR0004589 issued to Ralph Reach, 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 Ralph Reach, M.D., to renew or modify these registrations, as well as any other pending application of Ralph Reach, M.D., for additional registration in Tennessee or Virginia. This Order is effective May 6, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 1, 2024, 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.

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email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[5] Because Respondent's DEA registrations at issue here are based on his Tennessee and Virginia medical licenses, which have undeniably been revoked and suspended, it is of no consequence that he may maintain a valid medical license and separate DEA registration based in North Carolina, *see* Respondent's Opposition, at 4. RD, at 7; *Omar Garcia, M.D.,* 87 FR 32186, 32187 n.6 (2022).

[6] As such, the Agency finds Respondent's arguments regarding the discretionary nature of 21 U.S.C. 824(a)(3), *see* Respondent's Response in Opposition to Government's Motion for Summary Disposition (Respondent's Opposition), at 4, to be unavailing. RD, at 6; *see also Bhanoo Sharma, M.D.,* 87 FR 41355, 41356 n.4 (2022).

[7] 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. 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 at 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 Opposition, at 4. RD, at 6–7. What is consequential is the Agency's finding that Respondent is not currently authorized to dispense controlled substances in either Tennessee or Virginia, the states in which he is registered with the DEA. *Adley Dasilva, P.A.,* 87 FR 69341, 69341 n.2 (2022).

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On April 1, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of New York in the lawsuit entitled *U.S.* v. *Kyocera AVX Components Corporation,* Civil No. 1:24–cv–305.