

Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (RD), at 4–5. 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 as found in the RD and summarizes and expands upon portions thereof herein.

Findings of Fact

On November 29, 2023, the Arizona Regulatory Board of Physician Assistants revoked Respondent's Arizona physician assistant license. RD, at 3.² According to Arizona online records, of which the Agency takes official notice, Respondent's Arizona physician assistant license remains revoked.³ Arizona Regulatory Board of Physician Assistants, Find Your PA, <https://www.azpa.gov/PASearch/PASearch> (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not currently licensed to practice as a physician assistant in Arizona, the state in which he 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 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, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in

² See also Government's Notice of Filing of Evidence of Lack of State Authority; Service of Order to Show Cause; and Motion for Summary Disposition, Declaration of [Diversion Investigator], Exhibit A, at 8–9.

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.

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, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁴

According to Arizona statute, “[e]very person who manufactures, distributes, dispenses, prescribes or uses for scientific purposes any controlled substance within th[e] state or who proposes to engage in the manufacture, distribution, prescribing or dispensing of or using for scientific purposes any controlled substance within th[e] state must first: (1) [o]btain and possess a current license or permit as a medical practitioner as defined in § 32–1901” *Ariz. Rev. Stat. Ann. section 36–2522(A)(1)* (2024). Section 32–1901 defines a “[m]edical practitioner” as “any medical doctor . . . or other person who is licensed and authorized by law to use and prescribe drugs and devices to treat sick and injured human beings or animals or to diagnose or prevent sickness in human beings or animals in [Arizona] or any state,

⁴ 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). 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. 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 1; Respondent's Motion to Continue Show Cause Hearing. Rather, the Agency's finding that Respondent is not currently authorized to dispense controlled substances in Arizona, the state in which he is registered with DEA, is controlling. *Adley Dasilva, P.A.*, 87 FR 69341, 69341 n.2 (2022); see also Order Denying Respondent's Motion to Continue.

territory or district of the United States.” *Id.* section 32–1901.

Here, the undisputed evidence in the record is that Respondent lacks authority to practice as a physician assistant in Arizona. As discussed above, only a licensed medical practitioner can dispense controlled substances in Arizona. Thus, because Respondent lacks authority to practice as a physician assistant in Arizona, and therefore is not a licensed medical practitioner, Respondent is not eligible to maintain a DEA registration. 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. MG7845778 issued to Wagner Gervais, P.A. 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 Wagner Gervais, P.A., to renew or modify this registration, as well as any other pending application of Wagner Gervais, P.A., for additional registration in Arizona. This Order is effective October 28, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 16, 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. 2024–22190 Filed 9–26–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Lawrence Rudolph, D.M.D.; Decision and Order

On July 12, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show

Cause (OSC) to Lawrence Rudolph, D.M.D., of Pittsburgh, PA, Washington, PA, and Cranberry TWP, PA (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 3, at 1, 3. The OSC proposed the revocation of Registrant's Certificates of Registration Nos. FR0070538, FR7760728, and FR7760730, alleging that Registrant's registrations should be revoked because Registrant is "currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the Commonwealth of Pennsylvania, the state in which [he is] registered with DEA." *Id.* at 1–2 (citing 21 U.S.C. 824(a)(3)).¹

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.² "A default, unless excused, shall be deemed to constitute a waiver of the registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, Registrant's Pennsylvania dental license expired on March 31, 2023. RFAAX 3, at 2. According to Pennsylvania online records, of which the Agency takes

official notice, Registrant's dental license remains expired.³ Pennsylvania Licensing System Verification Service, <https://www.pals.pa.gov/#!/page/search> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice dentistry in Pennsylvania, the state in which he 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 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, D.O.*, 76 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.*, 43 FR 27,616, 27,617 (1978).⁴

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, Registrant 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 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). 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*

According to Pennsylvania statute, "dispense" means "to deliver a controlled substance, other drug or device 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 such item for that delivery." 35 Pa. Stat. and Cons. Stat. Ann. § 780–102(b) (West 2024). Further, a "practitioner" means "a physician . . . dentist . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance, other drug or device in the course of professional practice or research in the Commonwealth of Pennsylvania." *Id.*

Here, the undisputed evidence in the record is that Registrant lacks authority to practice dentistry in Pennsylvania. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Pennsylvania. Thus, because Registrant lacks authority to practice dentistry in Pennsylvania and, therefore, is not authorized to handle controlled substances in Pennsylvania, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant'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. FR0070538, FR7760728, and FR7760730 issued to Lawrence Rudolph, D.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 Lawrence Rudolph, D.M.D., to renew or modify this registration, as well as any other pending application of Lawrence Rudolph, D.M.D., for additional registration in Pennsylvania. This Order is effective October 28, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 20, 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

Yeates, D.O., 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.*, 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

¹ According to Agency records, Registrant's registrations expired on April 30, 2024. The fact that a registrant allows his registration to expire during the pendency of an OSC does not impact the Agency's jurisdiction or prerogative under the Controlled Substances Act (CSA) to adjudicate the OSC to finality. *Jeffrey D. Olsen, M.D.*, 84 FR 68474, 68476–79 (2019).

² Based on the Government's submissions in its RFAA dated March 20, 2024, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the submitted Declaration from a DEA Diversion Investigator indicates that Registrant was personally served with the OSC on August 23, 2023. RFAAX 2, at 2.

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. 2024–22204 Filed 9–26–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 24–30]

Adam L. Larson, M.D.; Decision and Order

On February 23, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Adam L. Larson, M.D., of Draper, Utah (Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent's DEA Certificate of Registration No. FL0432815, alleging that Respondent is “without authority to handle controlled substances in Utah, the state in which [he is] registered with DEA.” *Id.* at 1–2 (citing 21 U.S.C. 824(a)(3)).

Respondent requested a hearing and filed an Answer. On March 15, 2024, the Government filed a Submission of Evidence and Motion for Summary Disposition. On April 9, 2024, Administrative Law Judge Paul E. Soeffing (the ALJ) granted the Government's Motion for Summary Disposition and recommended the revocation of Respondent's registration, finding that because Respondent lacks authority to handle controlled substances in Utah, the state in which he is registered with DEA, “there is no other fact of consequence for this tribunal to decide.” 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 6. 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 as found in the RD and summarizes and expands upon portions thereof herein.

Findings of Fact

On January 3, 2024, Respondent surrendered his Utah medical license

and Utah controlled substance license. RD, at 3; *see also* Government's Submission of Evidence and Motion for Summary Disposition, Exhibit (GX) 2, at 7, 11. According to Utah online records, of which the Agency takes official notice, Respondent's Utah medical license and Utah controlled substance license both remain surrendered.¹ Utah Division of Professional Licensing, Licensee Lookup & Verification System, <https://secure.utah.gov/llv/search/search.html> (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not licensed to practice medicine nor to handle controlled substances in Utah, the state in which he is registered with DEA.²

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

¹ 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.

² In his Answer, Respondent contends that the correct registered address for his DEA Certificate of Registration No. FL0432815 is in Arizona. Answer of Respondent [] and Evidence of State Authority (Respondent's Answer), at 1. However, Agency records show that the registered address for Respondent's DEA Certificate of Registration FL0432815 is 12340 South 450 East, Draper, Utah 84020.

Respondent also argues that despite lacking authority to handle controlled substances in Utah, he has authority to handle controlled substances elsewhere, referencing a different DEA Certificate of Registration with a Texas address. Respondent's Answer, at 1. Because Respondent's DEA registration at issue is based on his Utah licenses, which have undeniably been surrendered, it is of no consequence that he may maintain valid authority and a separate DEA registration elsewhere. *Ralph Reach, M.D.*, 89 FR 24036, 24037 n.5 (2024); *Omar Garcia, M.D.*, 87 FR 32186, 32187 n.6 (2022).

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, 71372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).³

According to Utah statute, “[e]very person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within [the] state . . . shall obtain a license issued by the [Division of Professional Licensing].” Utah Code Ann. section 58–37–6(2)(a)(i) (2024).

Here, the undisputed evidence in the record is that Respondent lacks authority to handle controlled substances in Utah because he surrendered both his Utah medical license and his Utah controlled substance license. As discussed above, an individual must hold a controlled substance license to dispense a controlled substance in Utah. Thus, because Respondent lacks authority to handle controlled substances in Utah, Respondent is not eligible to maintain a DEA registration in Utah. RD, at 5–6. Accordingly, the Agency will order that Respondent's DEA registration in Utah 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. FL0432815 issued to Adam L. Larson, 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

³ 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). 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.