According to Colorado statute, ''[e]very person who manufactures, distributes, or dispenses any controlled substance within this state . . . shall obtain . . . a registration, issued by the respective licensing board . . . . For purposes of this section and this article [ ], 'registration' or 'registered' means . . . the licensing of physicians by the Colorado medical board . . . .'' Colo. Rev. Stat. § 18–18–302(1) (2022). Here, the undisputed evidence in the record is that Registrant's Colorado medical license was suspended by the Colorado Medical Board. As such, Registrant is not authorized to dispense controlled substances in Colorado and thus is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant'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. AM2605561 issued to Donald J. Murphy, 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 applications of Donald J. Murphy, M.D. to renew or modify this registration, as well as any other pending application of Donald J. Murphy, M.D. for additional registration in Colorado. This Order is effective August 11, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on July 6, 2022, 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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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.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Alphonsus Okoli, M.D.; Decision and Order

On June 7, 2021, the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Alphonsus Okoli, M.D. (hereinafter, Registrant). OSC, at 1 and 4. The OSC proposed the revocation of Registrant's Certificate of Registration No. BO4917780 at the registered address of 7525 Greenway Center Drive, Suite 110, Greenbelt, Maryland 20770. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''without authority to handle controlled substances in Maryland, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).[1]

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its Request for Final Agency Action (RFAA).[2]

Findings of Fact

On March 23, 2021,[3] Registrant and the Maryland State Board of Physicians (hereinafter, the Board) entered into a Consent Order suspending Registrant's Maryland medical license and permanently prohibiting him from prescribing and dispensing Controlled Dangerous Substances (hereinafter, CDS). *See* RFAAX C–4 (Consent Order), at 12–18. On September 29, 2021, the Board issued an Order Terminating Suspension and Imposing Probation that ended the suspension of Registrant's Maryland medical license, but maintained that, as had been ordered in Registrant's Consent Order with the Board, Registrant was permanently prohibited from prescribing and dispensing all controlled dangerous substances. RFAAX C–5, at 1–4.

According to Maryland's online records, of which the Agency takes official notice, Registrant's Maryland CDS license is still revoked.[4] Maryland Department of Health CDS Search, *https://health.maryland.gov/ocsa/pages/cdssearch.aspx* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to dispense controlled dangerous substances in Maryland, 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 (hereinafter, 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 71,371 (2011), *pet. for rev. denied,* 481 F. App'x

[1] The OSC also alleged that Registrant's registration should be revoked because Registrant has ''committed such acts as would render [his] registration inconsistent with the public interest, as that term is defined under the Controlled Substances Act,'' based on Registrant's lack of compliance with a DEA Memorandum of Agreement (MOA). OSC, at 2 (citing 21 U.S.C. 823(f) and 824(a)(4)). However, in its Request for Final Agency Action (RFAA) submitted to this Office on June 22, 2022, the Government noted that while it does not concede that Registrant complied with the MOA, Registrant's lack of state authority to handle controlled substances is ''case dispositive and the Government does not seek a Final Order on the public interest allegations.'' RFAA, at n.2.

[2] By letter dated July 12, 2021, Registrant submitted a written statement in response to the OSC in which he waived his right to a hearing. RFAA, Exhibit (hereinafter, RFAAX) B, at 1–2. As the Government seeks Final Agency Action solely on the ground that Registrant lacks state authority to handle controlled substances, the Agency will not consider Registrant's explanation in response to the public interest allegations at this time. *See id.* Registrant also argues that his DEA registration should not be revoked for lack of state authority because he still has a North Carolina medical license in ''inactive status.'' *Id.* at 2.

[3] On April 13, 2020, an Administrative Law Judge of the Maryland Office of Administrative Hearings issued a Proposed Decision recommending that Registrant's Maryland Controlled Dangerous Substances (CDS) license be revoked. RFAAX C–2, at 1, 21. On June 25, 2020, the Designee of the Maryland Secretary of Health issued a Final Decision and Order adopting the Proposed Decision in full and revoking Registrant's Maryland CDS license. RFAAX C–3, at 1–4.

[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, 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.usdoj.gov.*

826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).[5]

According to Maryland statute, ''a person shall be registered by the Department before the person manufactures, distributes, or dispenses a controlled dangerous substance in the State or transports a controlled dangerous substance into the State.'' Md. Code. Ann., Crim. Law § 5–301(a)(1) (West 2022). Maryland law further defines ''dispense'' to mean ''to deliver to the ultimate user or the human research subject by or in accordance with the lawful order of an authorized provider'' and states that the term includes ''to prescribe, administer, package, label, or compound a substance for delivery.'' *Id.* at § 5–101(I)(1)–(2).

Here, the undisputed evidence in the record is that Registrant's CDS license was revoked. As already discussed, a practitioner must hold a valid controlled substance license to dispense a controlled substance in Maryland.[6] Thus, Registrant is not eligible to maintain a DEA registration in Maryland and the Agency will order that Registrant'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. BO4917780 issued to Alphonsus Okoli, 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 applications of Alphonsus Okoli, M.D. to renew or modify this registration, as well as any other pending application of Alphonsus Okoli, M.D. for additional registration in Maryland. This Order is effective August 11, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on July 6, 2022, 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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BILLING CODE 4410–09–P

[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(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.

[6] The Agency finds that Registrant's inactive North Carolina medical license has no bearing on the issue in this case, which is whether Registrant has authority to handle controlled substances in the Maryland, the state of his DEA registration.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 22–23]

Bhanoo Sharma, M.D.; Decision and Order

On April 4, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Bhanoo Sharma, M.D. (hereinafter, Respondent). OSC, at 1 and 3. The OSC proposed the revocation of Respondent's Certificate of Registration No. FS3031034 at the registered address of 17577 Kedzie Avenue, Suite 108, Hazel Crest, Illinois 60429. *Id.* at 1. The OSC alleged that Respondent's registration should be revoked because Respondent is ''without authority to handle controlled substances in the State of Illinois, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

By letter dated May 4, 2022, Respondent requested a hearing. On May 4, 2022, Chief Administrative Law Judge John J. Mulrooney, II (hereinafter, the Chief ALJ) issued an Order Directing the Filing of Government Evidence Regarding Its Lack of State Authority Allegation and Briefing Schedule. On May 11, 2022, the Government filed its Submission of Evidence and Motion for Summary Disposition (hereinafter, Motion for Summary Disposition). On May 20, 2022, Respondent filed his Reply in Opposition to the Government's Motion for Summary Disposition (hereinafter, Respondent's Reply).[1]

On June 1, 2022, the Chief ALJ granted the Government's Motion for Summary Disposition and recommended the revocation of Respondent's DEA registration, finding that because Respondent lacks state authority to handle controlled substances, ''there is no other fact of consequence for [the] tribunal to decide in order to determine whether or not [Respondent] is entitled to hold a [DEA 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 (hereinafter, Recommended Decision or RD), at 6.[2]

The Agency issues this Decision and Order based on the entire record before it, 21 CFR 1301.43(e), and makes the following findings of fact.

Findings of Fact

On February 19, 2021, the Illinois Department of Financial and Professional Regulation issued an Order suspending Respondent's Illinois medical license. Government Exhibit 3, at 1–2. According to Illinois online records, of which the Agency takes official notice, Respondent's state medical license is still suspended.[3]

[1] In his Reply, Respondent argued that his DEA registration should not be revoked because, although his Illinois medical license was suspended, no specific action had been taken against his Illinois controlled substance license and there have been no allegations against him regarding his controlled substance prescribing. Respondent's Reply, at 2. Further, Respondent argued that his DEA registration should not be revoked because he is appealing the underlying action that resulted in the suspension of his Illinois medical license. *Id.* at 2–4. Finally, Respondent argued that the plain language of 21 U.S.C. 824(a)(3) does not mandate revocation of a DEA registration upon suspension of a practitioner's state medical license, but rather, implies that revocation is discretionary. *Id.* at 4–5. In support of his final argument, Respondent asserts that the Government has not put forth any argument indicating why his DEA registration *must* be revoked. *Id.*

[2] By letter dated June 28, 2022, the Chief ALJ certified and transmitted the record to the Agency for final agency action, advising that neither party filed exceptions.

[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

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