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) and (f). RFAA, at 1.

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, on April 8, 2022, Registrant ''entered into an Agreement with the State of Oklahoma Board of Medical Licensure and Supervision 'not to practice in any manner as a Medical Doctor in the State of Oklahoma,' '' and ''[o]n October 31, 2022, [Registrant's] State of Oklahoma controlled substance registration expired.'' RFAAX 2, at 2.

According to Oklahoma's online records, of which the Agency takes official notice, Registrant is not ''Registered to Dispense,'' and Registrant's Oklahoma controlled substance license remains inactive.[2] Oklahoma Board of Medical Licensure and Supervision, Search Licenses, *https://www.okmedicalboard.org/search* (last visited date of signature of this Order); Oklahoma Bureau of Narcotics and Dangerous Drugs Control, Registrant Search, *https://obnddc.us.thentiacloud.net/webs/obnddc/register/#* (last visited date of signature of this Order). Therefore, the Agency finds that Registrant is not authorized to dispense or handle controlled substances in Oklahoma, 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 27616, 27617 (1978).[3]

Pursuant to the Oklahoma's Uniform Controlled Dangerous Substances Act, ''[e]very person who manufactures, distributes, dispenses, prescribes, administers or uses for scientific purposes any controlled dangerous substance within or into this state . . . shall obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, in accordance with rules promulgated by the Director.'' Okla. Stat. tit. 63, section 2–302(A).[4]

Here, the evidence in the record is that Registrant currently lacks authority to handle controlled substances in Oklahoma because his Oklahoma controlled substance license has expired. As already discussed, a person must hold a valid controlled substance license to dispense a controlled substance in Oklahoma, subject to limited exceptions. Thus, because Registrant lacks authority to handle controlled substances in Oklahoma, Registrant 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. BM0663523 issued to Demille W. Madoux, 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 Demille W. Madoux, M.D., to renew or modify this registration, as well as any other pending application of Demille W. Madoux, M.D., for additional registration in Oklahoma. This Order is effective November 30, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on October 20, 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. 2023–23953 Filed 10–30–23; 8:45 am]

BILLING CODE 4410–09–P

[2] 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 the DEA Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[3] This rule derives from the text of two provisions of the Controlled Substances Act. 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 at 71371–72; *Sheran Arden 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 at 27617.

[4] Although there are limited circumstances under which a person ''may lawfully possess controlled dangerous substances'' without a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, based on the information furnished by the Government, none are applicable here. *Id.* Section 2–302(H).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Fares F. Yasin, M.D.; Decision and Order

On June 30, 2021, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Fares F. Yasin, M.D. (hereinafter, Applicant). Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 2, at 1, 4; RFAAX 4, at 1. The OSC proposed the denial of Applicant's application for a DEA Certificate of Registration, Control No. W19137777C, with the proposed registered address of

11 Calle Central, Coto Laurel, Puerto Rico 00780. RFAAX 2, at 1. The OSC alleged that Applicant's application should be denied because Applicant materially falsified his application and because Applicant's registration would be inconsistent with the public interest. *Id.* (citing 21 U.S.C. 824(a)(1), 823(g)(1) [1]).

By letter dated August 31, 2021, Applicant requested that DEA ''[f]ormally withdraw [his] DEA registration application and cancel the hearing.'' RFAAX 3.[2] On May 25, 2023, the Government submitted its RFAA, alleging that Applicant's Puerto Rico controlled substance license had been suspended and proposing the denial of Applicant's application on the grounds that Applicant lacks authority to handle controlled substances in Puerto Rico, the territory in which he seeks registration with DEA. RFAA, at 1, 3.[3] The Government had not alleged that Applicant lacked authority in the OSC. *See* RFAAX 2. Nonetheless, the Government is not required to issue an amended OSC to notice an allegation of a registrant's lack of state (or in this case territory) authority that arises during the pendency of a proceeding regarding a DEA registration. *Hatem M. Ataya, M.D.,* 81 FR 8221, 8244 (2016). Previous Agency decisions have stated that because the possession of state authority is a prerequisite for obtaining and maintaining a registration, the issue of state authority can be raised at any stage of a proceeding. *See Ataya,* 81 FR at 8244; *Joe M. Morgan, D.O.,* 78 FR 61961, 61973–74 (2013).[4]

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA.

Findings of Fact

On August 10, 2022, the Puerto Rico Department of Health suspended Applicant's Puerto Rico controlled substance license. RFAAX 5, Appendix A, at 1. As of August 15, 2022, Applicant's Puerto Rico controlled substance license remained suspended. *Id.*[5] Accordingly, the Agency finds that Applicant is not licensed to handle controlled substances in Puerto Rico, the territory in which he seeks registration 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 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 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 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[6]

According to the Puerto Rico Controlled Substances Act, ''[a]ny person who manufactures, distributes and dispenses controlled substances in the Commonwealth of Puerto Rico . . . shall obtain a registration certification annually, issued by the Secretary of Health, pursuant to the rules and regulations approved and promulgated by said government official.'' P.R. Laws Ann. tit. 24, section 2302(a) (West, current through all acts translated by the Translation Office of the Puerto Rico Government through the 2011 Legislative Session and various acts from 2012 to the present). Further, ''dispense'' means ''the prescribing, administering or delivering of a controlled substance to an ultimate user, by prescription or order for administering it. It includes the process of the compounding, labeling and packaging of a controlled substance for such delivery. The term 'dispenser' means the practitioner who so delivers a controlled substance.'' *Id.* at section 2102(11).

Here, the undisputed evidence in the record is that Applicant lacks authority to dispense controlled substances in Puerto Rico. As discussed above, a physician must hold a controlled substances license to dispense a controlled substance in Puerto Rico. Thus, because Applicant lacks authority to handle controlled substances in Puerto Rico, Applicant is not eligible to receive a DEA registration. Accordingly,

[1] Effective December 2, 2022, the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117–215, 136 Stat. 2257 (2022) (Marijuana Research Amendments or MRA), amended the Controlled Substances Act (CSA) and other statutes. Relevant to this matter, the MRA redesignated 21 U.S.C. 823(f), cited in the OSC, as 21 U.S.C. 823(g)(1). This Decision cites to the current designation, 21 U.S.C. 823(g)(1), and to the MRA-amended CSA throughout.

[2] Based on the Declaration of a DEA Special Agent, the Agency finds that the Government's service of the OSC on Applicant was adequate and that Applicant was served with the OSC on July 8, 2021. RFAAX 4, at 1; *see also* RFAAX 4, Appendix A. According to Applicant, he responded to the OSC by email on August 8, 2021, and communicated several times thereafter with DEA regarding his desire to withdraw his application prior to submitting the August 31, 2021 letter. RFAAX 3.

[3] In its RFAA, the Government appears to have dropped the allegations regarding material falsification and public interest. RFAA, at 2–3.

[4] Even so, in such cases, a registrant must be provided with a meaningful opportunity to contest the allegation. *See, e.g., Lawrence E. Stewart, M.D.,* 86 FR 15257, 15257 (2021); *Cypress Creek Pharmacy LLC,* 86 FR 71927, 71927 (2021); *Lesly Pompy, M.D.,* 84 FR 57749, 57749–50 (2019); *Ataya,* 81 FR at 8245; *Morgan,* 78 FR at 61973–74. On July 27, 2023, the Government submitted a Notice of Notification of RFAA in which the Government asserted that it had notified Applicant of the lack of authority allegation and had provided Applicant with a copy of the RFAA via email. Notice of Notification of RFAA, at 1; *see also* Notice of Notification of RFAA, Exhibit 1. The Government's evidence included an email to Applicant with instructions for submitting a response, if desired, to the lack of authority allegation. *Id.* Accordingly, the Agency finds that Applicant was notified of the RFAA and was provided with a meaningful opportunity to contest the lack of authority allegation. Further, more than two months have passed since the Government notified Applicant and Applicant has not availed himself of the opportunity to respond.

[5] The Agency has no indication that the status of Applicant's controlled substance license (which is not publicly available information) has changed. Following the submission of the Government's RFAA and its notification to Applicant that it had submitted the RFAA, the Agency to date has not received any correspondence from Applicant regarding any changes to the status of his controlled substance license. Accordingly, the Agency finds that Applicant's Puerto Rico controlled substance license remains suspended as of the date of signature of this Order. *See Heather M. Entrekin, DVM,* 88 FR 17266, 17266 (2023). Applicant may dispute the Agency's finding by filing a motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order with supporting documentation (showing that Applicant was able to dispense controlled substances on or before the date of this Order). Any such motion and response shall be filed and served by email to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration, at *dea.addo.attorneys@dea.gov.*

[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 section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 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 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.

the Agency will order that Applicant's application for a DEA registration be denied.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny the pending application for a Certificate of Registration, Control Number W19137777C, submitted by Fares F. Yasin, M.D., as well as any other pending application of Fares F. Yasin, M.D., for additional registration in Puerto Rico. This Order is effective November 30, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on October 20, 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. 2023–23957 Filed 10–30–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Stephen E. Van Noy, P.A.; Decision and Order

On March 24, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Stephen E. Van Noy, P.A. (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. MV2612681 at the registered address of 2101 Box Butte Avenue, Alliance, Nebraska 69301. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the state of Nebraska, the state in which [he is] registered with DEA.'' *Id.* at 1–2 (citing 21 U.S.C. 824(a)(3)).

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 1, 2.[1] ''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). *See also id.* § 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, on October 1, 2022, the Nebraska Department of Health and Human Services revoked Registrant's Nebraska physician assistant license. RFAAX 1, at 1.

According to Nebraska's online records, of which the Agency takes official notice, Registrant's Nebraska physician assistant license remains revoked.[2] Nebraska Department of Health and Human Services License Information System Search, *https://www.nebraska.gov/LISSearch/search.cgi* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice as a physician assistant in Nebraska, 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 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.,* 43 FR 27616, 27617 (1978).[3]

According to Nebraska statute, ''[d]ispense means to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery.'' Neb. Rev. Stat. section 28–401(8) (2023). Further, a ''[p]ractitioner means a physician, a physician assistant . . . or any other person licensed, registered, or otherwise

[1] Based on the Government's submissions in its RFAA dated August 2, 2023, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the included Declaration of a DEA Diversion Investigator asserts that on March 30, 2023, Registrant was served with the OSC at his registered address via certified mail. RFAAX 2, at 1.

[2] 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 DEA Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[3] 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, Public Law 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 at 71371–72; *Sheran Arden 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 at 27617.