conviction.[6] RFAAX 14, at 1, 3. On August 8, 2019, the State of Ohio Board of Pharmacy permanently revoked Emed Medical Company's license as a wholesale distributor of dangerous drugs. RFAAX 15, at 4–5; *see also id.* at 6–9 (May 3, 2019, letter proposing to revoke Emed Medical Company's license). Finally, on December 28, 2020, Registrants entered into settlement agreements with the Missouri Board of Pharmacy that placed both Emed Medical Products' drug distributor permit and Med Assist Pharmacy's pharmacy permit on probation for three years beginning on or about January 23, 2021. RFAAX 16, at 6, 9; RFAAX 35, at 5, 9.

In sum, despite numerous periods of probation, suspension, and revocation in multiple state jurisdictions, Registrants answered ''No'' to liability question 3 on each of the seventeen applications they submitted prior to issuance of the OSC. *See* RFAAX 18–33, 37. As such, the Agency finds that Registrants' answers were clearly false because Registrants, on multiple occasions, had their state controlled substance registrations or licensures placed on probation, suspended, and/or revoked for cause.

II. Discussion

The Administrator may suspend or revoke a registration if a registrant materially falsified an application for registration. 21 U.S.C. 824(a)(1). Here, Registrants provided false information to liability question 3 on each of their seventeen applications—falsely responding that they had never had a state controlled substance registration placed on probation, suspended, and/or revoked for cause. *See* RFAAX 18–33, 37. Agency decisions have repeatedly held that false responses to the liability questions on an application for registration are material. *E.g., Crosby Pharmacy and Wellness,* 87 FR 21,212, 21,214 (2022); *Frank Joseph Stirlacci, M.D.,* 85 FR 45,229, 45,234–35 (2020). Accordingly, the Agency finds that the Government has established grounds to revoke Registrants' registrations and to deny any pending applications of Registrants.

[6] On March 12, 2015, Eric Bailey plead guilty to conspiracy to commit mail and wire fraud after allowing Emed Medical Products' license to be used by a criminal codefendant and facilitating the writing of funds for shipment of pharmaceuticals. RFAAX 12, at 1, 9–10; *see also* RFAAX 11; RFAAX 13. In the current matter, the OSC does not allege that Registrants' failure to disclose this criminal conviction in response to liability question 4 on their various DEA applications constitutes additional incidents of material falsification; instead, these facts are provided as background only and are immaterial to the Agency's decision.

III. Sanction

Where, as here, the Government has established grounds to revoke a registration or deny an application, the burden shifts to the registrants to show why they can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.,* 83 FR 18,882, 18,910 (2018) (citing *Samuel S. Jackson,* 72 FR 23,848, 23,853 (2007)). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant; therefore, the Agency looks at factors, such as the acceptance of responsibility and the credibility of that acceptance as it relates to the probability of repeat violations or behavior and the nature of the misconduct that forms the basis for sanction, while also considering the Agency's interest in deterring similar acts. *See Arvinder Singh, M.D.,* 81 FR 8,247, 8,248 (2016).

Here, Registrants did not avail themselves of the opportunity to refute the Government's case or demonstrate why they can be entrusted with registration. Moreover, Registrants repeated their misconduct for years, rendering it particularly egregious. Accordingly, the Agency will order the sanctions requested by the Government, as contained in the Order below.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1) and 824(a)(2), I hereby revoke Emed Medical Company LLC's DEA Certificate of Registration No. RE0357271 and Med Assist Pharmacy's DEA Certificate of Registration No. FM2022008. 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 Emed Medical Company LLC or Med Assist Pharmacy to renew or modify their registrations, as well as any other pending application(s) that they may have for addition registration in Missouri. This Order is effective May 11, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 4, 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. 2023–07512 Filed 4–10–23; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Thomas W. Stinson, III, M.D.; Decision and Order

On November 21, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Thomas W. Stinson, III, M.D. (hereinafter, Registrant). Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 2, at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. AS7987348 at the registered address of 400 W Cummings Park, STE 1825, Woburn, MA 01801. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''currently without authority to handle controlled substances in the Commonwealth of Massachusetts, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA dated March 6, 2023.[1]

Findings of Fact

On August 4, 2022, the Massachusetts Board of Registration in Medicine issued an Order of Temporary Suspension that immediately suspended Registrant's Massachusetts medical license. RFAAX 3, Attachment C, at 1. Due to the suspension of Registrant's Massachusetts medical license, on August 17, 2022, the Massachusetts Drug Control Program issued a letter to Registrant terminating Registrant's

[1] Based on the Declaration from a DEA Diversion Investigator, the Agency finds that the Government's service of the OSC on Registrant was adequate. RFAAX 3, at 2–3. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC and Registrant has neither requested a hearing nor submitted a corrective action plan and therefore has waived any such rights. RFAA, at 2–3; RFAAX 3, at 3; *see also* 21 CFR 1301.43 and 21 U.S.C. 824(c)(2).

Massachusetts controlled substance registration (hereinafter, MCSR). RFAAX 3, Attachment D.[2]

According to Massachusetts online records, of which the Agency takes official notice, Registrant's MCSR is terminated.[3] Massachusetts Health Professions License Verification Site, *https://madph.mylicense.com/verification* (last visited date of signature of this Order).[4] Accordingly, the Agency finds that Registrant is not authorized to handle controlled substances in Massachusetts, 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 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 the Massachusetts Controlled Substances Act, ''every person who manufactures, distributes or dispenses, or possesses with intent to manufacture, distribute or dispense any controlled substance within the commonwealth shall . . . register with the commissioner of public health, in accordance with his regulations . . . .'' Mass. Gen. Laws. ch. 94C, § 7(a) (2022). Further, ''[a] prescription for a controlled substance may be issued only by a practitioner who is: (1) authorized to prescribe controlled substances; and (2) registered pursuant to the provisions of [the Massachusetts Controlled Substances Act].'' *Id.* at § 18(a).

Here, the undisputed evidence in the record is that Registrant lacks authority to handle controlled substances in Massachusetts because Registrant's MCSR was terminated. As already discussed, a practitioner must hold a valid controlled substance registration to dispense a controlled substance in Massachusetts. Thus, because Registrant lacks state authority to handle controlled substances, 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. AS7987348 issued to Thomas W. Stinson, III, 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 Thomas W. Stinson, III, M.D., to renew or modify this registration, as well as any other pending application of Thomas W. Stinson, III, M.D., for additional registration in Massachusetts. This Order is effective May 11, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 4, 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.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–3]

Donn Bullens, J.R., N.P.; Decision and Order

On September 7, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Donn Bullens, Jr., N.P. (hereinafter, Registrant). Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 2 (OSC), at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. MB4611744 at the registered address of 227 Babcock Street, Brookline, MA 02446. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''currently without authority to handle controlled substances in the Commonwealth of Massachusetts, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by

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[2] The letter states that Registrant ''is no longer authorized to prescribe, distribute, possess, dispense, or administer controlled substances in the Commonwealth of Massachusetts.'' *Id.* Moreover, on February 2, 2023, the Massachusetts Board of Registration in Medicine issued a Final Decision and Order revoking Registrant's Massachusetts medical license. RFAAX 3, Attachment E, at 1, 6.

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

[4] Further, Registrant's Massachusetts medical license is revoked. Massachusetts Board of Registration in Medicine Physician License Verification Site, *https://findmydoctor.mass.gov* (last visited date of signature of this Order).

[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 § 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.