

142—the fact is that he repeatedly demonstrated behavior that is untrustworthy. I am not convinced that the few days of training that he took in ethics was so impactful as to have reformed him in the manner that he suggests. Therefore, I find that the issue of specific deterrence weighs in favor of revocation.

Regarding general deterrence,] as the regulator in this field, the Agency bears the responsibility to deter similar misconduct on the part of others for the protection of the public at large. *Ruben*, 78 FR at 38385. To the extent that no sanction is imposed, the unambiguous message to the regulated community would be that four-and-a-half years of enabling the (apparently inappropriate) use of powerful controlled drugs for a spouse, while employing the artifice of alternating scrip names, and only stopping when state and federal regulatory authorities are tipped off by a pharmacist, carries with it no consequence. The Respondent's case in this regard might have been somewhat fortified if the level of cunning or the duration of the malfeasance had been more constrained, but the record is what it is.

C. Egregiousness

Considerations of egregiousness likewise support revocation. The Respondent carried on prescribing for his wife (even during her pregnancy) for four-and-a-half years, which is a significant amount of time to carry on with conduct that a person knows is straight-up wrong. The prescribing was not a one-off, an act of momentary desperation, or a misguided accident borne of professional ignorance, and there was no eureka moment. Like pressing his advantage with the PA colleague he mentored, the Respondent's acts were consistently intentional. The intentional nature of the Respondent's acts undermines the ability of the Agency, at least at present, to have confidence that he will responsibly exercise the responsibilities of a DEA registrant.

Accordingly, it is respectfully recommended that the Respondent's DEA COR should be *revoked*, and any pending applications for renewal should be *denied*.

Dated: December 8, 2020.

John J. Mulrooney, II,
Chief Administrative Law Judge.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a)(4) and 21 U.S.C. 823(f), I hereby revoke DEA Certificate of Registration

No. MD3130717 issued to Noah David, P.A. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(f), I hereby deny any pending application of Noah David, P.A. to renew or modify this registration, as well as any other pending application of Noah David, P.A. for registration in Virginia. This Order is effective May 11, 2022.

Anne Milgram,

Administrator.

[FR Doc. 2022–07688 Filed 4–8–22; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Douglas A. Blose, M.D.; Decision and Order

On September 28, 2021, a former Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC) to Douglas A. Blose, M.D. (hereinafter, Registrant) of Downey, California. OSC, at 1 and 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. AB2619510. *Id.* at 1. It alleged that Registrant “[does not] have authority to dispense or prescribe controlled substances in the State of California, the state in which [he is] registered with the DEA.” *Id.* (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that on or about March 9, 2020, Registrant executed a Stipulated Surrender of License and Disciplinary Order, pursuant to which he surrendered his California medical license. *Id.* at 2. According to the OSC, Registrant's surrender was accepted by the Medical Board of California on or about March 30, 2020, and took effect on April 29, 2020. *Id.*

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2–3 (citing 21 CFR 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

In a Declaration dated January 3, 2022, a Diversion Investigator (hereinafter, DI) assigned to the Los Angeles Field Division stated that on or about September 29, 2021, she sent a

copy of the OSC by certified mail to Registrant's registered address. Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) B (DI's Declaration), at 1–3. The DI stated that according to USPS tracking information, the copy of the OSC was delivered on or about October 1, 2021. *Id.* at 2. The DI also stated that on or about October 21, 2021, she mailed a copy of the OSC to Registrant's residential address as reflected on his California driver's license. *Id.* The DI stated that according to USPS tracking information, the second copy of the OSC was delivered on or about October 23, 2021. *Id.* The DI concluded that neither copy of the OSC was returned as undeliverable and that she has not received any communications from Registrant or anyone acting on Registrant's behalf regarding the OSC. *Id.*

The Government forwarded its RFAA, along with the evidentiary record, to this office on January 26, 2022. In its RFAA, the Government represents that more than thirty days have passed since Registrant was served with the OSC and Registrant has not requested a hearing nor otherwise corresponded with DEA regarding the OSC. RFAA, at 2. The Government requests that Registrant's DEA registration be revoked based on his lack of authority to handle controlled substances in California, the state in which he is registered with the DEA. *Id.* at 6.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government accomplished service of the OSC on Registrant on or before October 23, 2021. I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the DI's Declaration, the Government's written representations, and my review of the record, I find that neither Registrant, nor anyone purporting to represent Registrant, has requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived his right to a hearing and his right to submit a written statement or corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

Findings of Fact**Registrant's DEA Registration**

Registrant is the holder of DEA Certificate of Registration No. AB2619510 at the registered address of 11525 Brookshire Avenue, Suite 101, Downey, California 90241. RFAAX B, at 1. Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration expires on July 31, 2022. *Id.*

The Status of Registrant's State License

On October 4, 2019, the Medical Board of California (hereinafter, the Board) issued an Accusation against Registrant alleging repeated negligent acts and failure to maintain adequate and accurate records throughout his treatment and care of six specific patients. RFAAX B-1, at 9-15. Further, according to the Accusation, "on or about September 27, 2019, in a prior disciplinary action . . . [Registrant's] license was revoked with revocation stayed for five (5) years of probation for self-prescribing of controlled substances and conviction of crimes substantially related to qualifications, functions, or duties of a physician and surgeon." *Id.* at 16. On March 9, 2020, Registrant entered into a Stipulated Surrender of License and Disciplinary Order (hereinafter, Stipulated Surrender) in which he admitted the truth of the allegations in the Accusation and surrendered his California medical license for the Board's formal acceptance without further process. *Id.* at 4-7. The Stipulated Surrender ordered Registrant's medical license surrendered and was signed by Registrant and his attorney. *Id.* at 5-6. On March 30, 2020, the Board adopted the Stipulated Surrender, effective April 29, 2020. *Id.* at 1.

According to California's online records, of which I take official notice, Registrant's medical license is still surrendered.¹ Medical Board of

California License Verification, <https://www.mbc.ca.gov/License-Verification> (last visited date of signature of this Order). Accordingly, I find that Registrant is not licensed to engage in the practice of medicine in California, 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).

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 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.

According to California 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, furnishing, packaging, labeling, or compounding necessary to prepare the substance for that delivery." Cal. Health & Safety Code § 11010 (West, current with urgency legislation through Ch. 6 of 2022 Reg.Sess.). Further, a "practitioner" means a person "licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in this state." *Id.* at § 11026(c).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in California. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in California. Thus, because Registrant lacks authority to practice medicine in California and, therefore, is not authorized to handle controlled substances in California, Registrant is not eligible to maintain a DEA registration. Accordingly, I 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. AB2619510 issued to Douglas A. Blose, 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 application of Douglas A. Blose, M.D. to renew or modify this registration, as well as any other pending application of Douglas A. Blose, M.D. for additional registration in California. This Order is effective May 11, 2022.

Anne Milgram,
Administrator.

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DEPARTMENT OF JUSTICE**Drug Enforcement Administration****David H. Betat, M.D.; Decision and Order**

On August 21, 2019, a former Assistant Administrator of the Diversion Control Division of the Drug Enforcement Administration (hereinafter, Government) issued an

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, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding 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.