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), 1301.46. RFAA, at 3; *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, the Colorado Medical Board issued an Order of Suspension, effective April 20, 2023, suspending Registrant from the practice of medicine in the state of Colorado. RFAAX 2, at 2. According to Colorado online records, of which the Agency takes official notice, Registrant's Colorado physician license remains suspended.''[2] Colorado Division of Professions and Occupations License Search, *https://apps2.colorado.gov/dora///licenselookup.aspx* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice medicine in Colorado, 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]

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) (2023).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice medicine in Colorado. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in Colorado. Thus, because Registrant lacks authority to practice medicine in Colorado and, therefore, is not authorized to handle controlled substances in Colorado, 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. BY9053240 issued to Mark Young, 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 Mark Young, M.D., to renew or modify this registration, as well as any other pending application of Mark Young, M.D., for additional registration in Colorado. This Order is effective January 22, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 12, 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. 2023–28016 Filed 12–20–23; 8:45 am]

BILLING CODE 4410–09–P

[1] Based on the Government's submissions in its RFAA dated September 12, 2023, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the Government's included Notice of Service of Order to Show Cause includes as an attachment a Form DEA–12 signed by Registrant indicating that Registrant was personally served with the OSC on July 20, 2023. RFAAX 1, Attachment B.

[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 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, 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, 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.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–52]

Frank A. Hooper, D.V.M.; Decision and Order

On June 6, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Frank A. Hooper, D.V.M. (Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent's DEA Certificate of Registration No. BH4810518 at the registered address of 100B Old Woodruff Road, POB 123, Greer, South Carolina 29651. *Id.* at 1. The OSC alleged that Respondent's DEA registration should be revoked because

Respondent is ''without authority to prescribe, administer, dispense, or otherwise handle controlled substances in South Carolina, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

On July 19, 2023, Respondent requested a hearing. On July 27, 2023, the Government filed a Motion for Summary Disposition, to which Respondent did not respond. On August 14, 2023, the Chief Administrative Law Judge (Chief ALJ) granted the Government's Motion for Summary Disposition and recommended the revocation of Respondent's registration, finding that because Respondent lacks state authority to handle controlled substances in South Carolina, 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 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 Chief 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 February 21, 2023, the South Carolina State Board of Veterinary Medical Examiners issued an Order of Temporary Suspension that suspended Respondent's South Carolina veterinary license. RD, at 4.[1] Further, on March 27, 2023, the South Carolina Department of Health and Environmental Control Bureau of Drug Control (SC DHEC Bureau of Drug Control) cancelled Respondent's South Carolina controlled substances registration. RD. at 4 n.3.[2]

According to South Carolina online records, of which the Agency takes official notice, Respondent's South Carolina veterinary license remains suspended.[3] South Carolina Board of Veterinary Medical Examiners, Licensee Lookup, *https://verify.llronline.com/LicLookup/Vet/Vet.aspx?div=40* (last visited date of signature of this Order). Further, Respondent's South Carolina controlled substances registration is listed with an expiration date of March 27, 2023. SC DHEC Bureau of Drug Control, Controlled Substances Registration Verification, *https://apps.dhec.sc.gov/DrugControl/Licensing/Home/Verify* (last visited date of signature of this Order).

Accordingly, the Agency finds that Respondent is not currently licensed to engage in veterinary practice nor to handle controlled substances in South Carolina, 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 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, 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 South Carolina statute, ''[e]very person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, shall obtain a registration issued by the [Department of Health and Environmental Control] in accordance with its rules and regulations.'' S.C. Code 44–53–290(a) (2023). Further, ''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, administering, packaging, labeling, or compounding necessary to prepare the substance for the delivery.'' *Id.* 44–53–110(15).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to dispense controlled substances in South Carolina because his South Carolina controlled substance registration has been cancelled. As discussed above, an individual must hold a controlled substance registration to dispense a controlled substance in South Carolina. Thus, because Respondent lacks authority to handle controlled substances in South Carolina, Respondent is not eligible to maintain a DEA registration. RD, at 5. 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. BH4810518 issued to Frank A. Hooper, D.V.M. 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 Frank A. Hooper, D.V.M., to renew or modify this registration, as well as any other pending application of Frank A. Hooper, D.V.M., for additional registration in South Carolina. This Order is effective January 22, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 12, 2023, by Administrator

[1] *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, Exhibit (GX) 2, at 1; Declaration of S.N.R., at 3.

[2] *See also* GX 7; Declaration of Diversion Investigator, at 3.

[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.*

[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) (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 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.

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. 2023–28015 Filed 12–20–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0003]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; ARCOS Transaction Reporting

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Drug Enforcement Administration, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 20, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A Brinks, Regulatory Drafting and Policy Support Section, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3261; Email: *DPW@dea.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: Section 307 of the Controlled Substances Act (21 U.S.C. 827) requires controlled substance manufacturers and distributors to make periodic reports to DEA regarding the sale, delivery, and other disposal of certain controlled substances. These reports help ensure a closed system of distribution for controlled substances, and are used to comply with international treaty obligations.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* ARCOS Transaction Reporting.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* DEA Form 333. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Private Sector—business or other for-profit. The obligation to respond is mandatory per 21 CFR 1304.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 1,181 registrants participate in this information collection. The time per response is 0.50 minutes to complete the DEA–333 (paper) and 0.25 minutes to complete DEA–333 (online).

6. *An estimate of the total annual burden (in hours) associated with the collection:* DEA estimates that this collection takes 2,850 annual burden hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Total annual responses	Time per response (hours)	Total annual burden (hours)
DEA Form: 333 (online)	31	110	0.50	55
DEA Form: 333 (paper)	1,150	11,180	0.25	2,795
Unduplicated Totals	1,181	11,290		2,850