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.

According to Florida statute, ''A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, [or] dispense . . . a controlled substance.'' Fla. Stat. Ann. § 893.05(1)(a) (West, Current with laws of the 2021 First Regular Session of the Twenty-Seventh Legislature in effect through May 25, 2021). Further, ''practitioner,'' as defined by Florida statute, includes ''a physician licensed under chapter 458.'' [3] Fla. Stat. Ann. § 893.02(23) (West, Current with laws of the 2021 First Regular Session of the Twenty-Seventh Legislature in effect through May 25, 2021).

Here, the undisputed evidence in the record is that Registrant's license to practice medicine is currently revoked. As such, he is not a ''practitioner'' as that term is defined by Florida statute. As already discussed, however, a physician must be a practitioner to dispense a controlled substance in Florida. Thus, because Registrant lacks authority to practice medicine in Florida, he is not currently authorized to handle controlled substances in Florida.

B. Registrant's Felony Conviction

Pursuant to section 304(a)(2) of the CSA, the Attorney General is authorized to suspend or revoke a registration ''upon a finding that the registrant . . . has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States . . . relating to any substance defined in this subchapter as a controlled substance or a list I chemical.'' 21 U.S.C. 824(a)(2). Each subsection of Section 824(a) provides an independent ground to impose a sanction on a registrant. *Arnold E. Feldman, M.D.,* 82 FR 39,614, 39,617 (2017).

Here, there is no dispute in the record that Registrant has been convicted of conspiracy to possess with intent to distribute furanyl fentanyl resulting in death, in violation of 21 U.S.C. 846; distribution of furanyl fentanyl resulting in death, in violation of 21 U.S.C. 841(a)(1); attempt to possess with intent to distribute acetyl fentanyl, in violation of 21 U.S.C. 846; possession with intent to distribute oxycodone, in violation of 21 U.S.C. 841(a)(1); and conspiracy to possess with intent to distribute hydrocodone and oxycodone, in violation of 21 U.S.C. 846, which constitutes a felony conviction ''relating to'' controlled substances as those terms are defined in 21 U.S.C. 824(a)(2). 21 U.S.C. 846 and 841(a)(1); *William J. O'Brien, III, D.O.,* 82 FR 46,527, 46,529 (2017).

Where, as here, the Government has met its *prima facie* burden of showing that two grounds for revocation exist, the burden shifts to the Registrant to show why he can be entrusted with a registration. *See Jeffrey Stein, M.D.,* 84 FR 46,968, 46,972 (2019). Registrant, as already discussed, failed to respond in any way to the OSC. *See* RFAA, at 6. Therefore, among other things, Registrant has not accepted responsibility for his criminality, shown any remorse for it, or provided any assurance that he would not repeat it. *See Jeffrey Stein, M.D.,* 84 FR at 46,972–74. Such silence weighs against the Registrant's continued registration. *Zvi H. Perper, M.D.,* 77 FR 64,131 64,142 (2012) (citing *Medicine Shoppe-Jonesborough,* 73 FR 264, 387 (2008); *Samuel S. Jackson,* 72 FR 23,848, 23,853 (2007)); *see also Jones Total Health Care Pharmacy, LLC* v. *Drug Enf't Admin.,* 881 F3d. 823, 831 (11th Cir. 2018) (''An agency rationally may conclude that past performance is the best predictor of future performance.'') (quoting *Alra Laboratories, Inc.* v. *Drug Enf't Admin.,* 54 F.3d 450, 452 (7th Cir. 1995))).

Further, the CSA authorizes the Attorney General to ''promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this subchapter.'' 21 U.S.C. 871(b). This authority specifically relates ''to 'registration' and 'control,' and 'for the efficient execution of his functions' under the statute.'' *Gonzales* v. *Oregon,* 546 U.S. 243, 259 (2006). A clear purpose of this authority is to ''bar[] doctors from using their prescription-writing powers as a means to engage in illicit drug dealing and trafficking . . . .'' *Id.* at 270. In this case, Registrant has demonstrated the precise behavior that the Agency's authority is intended to prevent by engaging in outright drug dealing with appalling disregard for the value of human life. Registrant's behavior is ''so obviously egregious that revocation is warranted.'' *William J. O'Brien, III, D.O.,* 82 FR at 46,529.

Based on the record before me, I conclude that Registrant's founded criminality and lack of state authority to handle controlled substances in his state of DEA registration each make him ineligible to maintain a DEA registration. Accordingly, I shall order the sanctions the Government requested, 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. 824(a), I hereby revoke DEA Certificate of Registration No. BB3725732 issued to Johnny C. Benjamin, Jr., 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 Johnny C. Benjamin, Jr., M.D. to renew or modify this registration, as well as any other pending application of Johnny C. Benjamin, Jr., M.D. for additional registration in Florida. This Order is effective July 19, 2021.

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–12753 Filed 6–16–21; 8:45 am]

BILLING CODE 4410–09–P

[3] Chapter 458 regulates medical practice.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Tareq A. Khedir Al-Tiae, M.D.; Decision and Order

On February 11, 2021, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC) to Tareq A. Khedir Al-Tiae, M.D. (hereinafter, Registrant) of Lincoln, NE. OSC at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. FK4149882. It alleged that Registrant is without ''authority to handle controlled substances in the State of Nebraska, the state in which

[Registrant is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that the Nebraska Department of Health and Human Services suspended Registrant's Nebraska medical license on July 1, 2020. *Id.* According to the OSC, Registrant's Nebraska medical license subsequently expired on October 1, 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.* (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 May 10, 2021, a Diversion Investigator (hereinafter, the DI) assigned to the Omaha Division stated that on February 26, 2021, he attempted to call Registrant at the phone number that Registrant provided to DEA, but received no answer and left a voice mail urging Registrant to return the call. Amended Request for Final Agency Action dated May 21, 2021 (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 2 at 1–2. The DI stated that on the same day, he travelled to the address that Registrant provided to DEA as his registered and ''mail to'' address, 4211 N 8th Cir., Lincoln, NE 68521–4805. *Id.* at 2. The DI stated that nobody answered the door and he left a business card with instructions for Registrant to contact him. *Id.* The DI stated that he then traveled to an address in Grand Island, NE, which was ''another address where [the DI] believed [Registrant] may be residing.'' *Id.* The DI stated that again, nobody answered the door and he left a business card with instructions for Registrant to contact him. *Id.* The DI went on to describe how on March 2, 2021, and March 7, 2021, he made a second and third visit to Registrant's registered and ''mail to'' address. *Id.* The DI stated that both times, nobody answered the door and he left additional business cards with instructions for Registrant to call him, but the DI never received a return call. *Id.*

The DI then described how on March 9, 2021, he again called Registrant at the phone number that Registrant had provided to DEA. *Id.* The DI stated that although someone answered the phone, ''as soon as [the DI] identified [himself] and stated that [the DI] was looking for [Registrant], the person [on the phone] stated that [the DI] had reached the wrong phone number, denied that he was the [Registrant], and then hung up.'' *Id.* The DI then stated that following the phone call, he sent Registrant an email at the email address Registrant had provided to DEA. *Id.* The DI stated that on March 11, 2021, he emailed a copy of the OSC to the same email address. *Id.* The DI concluded that Registrant did not respond to either email, did not return any of the DI's calls, and did not respond to any of the messages that the DI left at the two addresses described above. *Id.*

The Government forwarded its RFAA,[1] along with the evidentiary record, to this office on May 21, 2021. In its RFAA, the Government represents that ''more than thirty days have passed since the [OSC] was served on [Registrant] and no request for hearing has been received by DEA. RFAA, at 1. The Government requests that Registrant's ''DEA Certificate of Registration as a practitioner be revoked and his application for renewal denied, based on the [Registrant's] lack of state authority.'' *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) March 11, 2021. I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent the Registrant, 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 the right to a hearing and the right to submit a written statement and 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. FK4149882 at the registered address of 4211 N 8th Cir., Lincoln, NE 68521–4805. RFAAX 4. 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 December 31, 2022, and is in ''active pending'' status. *Id.*

The Status of Registrant's State License

On July 1, 2020, the Nebraska Department of Health and Human Services suspended Registrant's Nebraska medical license. RFAAX 3. On October 1, 2020, Registrant's Nebraska medical license expired. *Id.*

According to Nebraska's online records, of which I take official notice, Registrant's license remains suspended.[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). Nebraska's online records show that Registrant's medical license remains suspended and that Registrant is not authorized in Nebraska to practice medicine. *Id.* Accordingly, I find that Registrant is not currently licensed to engage in the practice of medicine in Nebraska, the State in which Registrant 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 826 (4th Cir. 2012); *Frederick Marsh*

[1] The Government provided a Certificate of Service that stated that the RFAA was served via Registrant's registered address by mail and also via his email address on May 21, 2021. RFAA, at 7.

[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 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.*

Blanton, M.D., 43 FR 27,616, 27,617 (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 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.

Under Nebraska law, ''[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. § 28–401(8) (Westlaw, Current through legislation effective May 6, 2021). Further, ''[p]ractitioner means a physician . . . or any other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of practice or research in this state . . . .'' *Id.* at § 28–401(21). Because Registrant is not currently licensed as a physician, or otherwise licensed, in Nebraska, he is not authorized to dispense controlled substances in Nebraska.

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Nebraska. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in Nebraska. Thus, because Registrant lacks authority to practice medicine in Nebraska and, therefore, is not authorized to handle controlled substances in Nebraska, 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. FK4149882 issued to Tareq A. Khedir Al-Tiae, 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 Tareq A. Khedir Al-Tiae, M.D., to renew or modify this registration, as well as any other pending application of Tareq A. Khedir Al-Tiae M.D., for additional registration in Nebraska. This Order is effective July 19, 2021.

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–12755 Filed 6–16–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–852]

Bulk Manufacturer of Controlled Substances Application: AMPAC Fine Chemicals Virginia, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: AMPAC Fine Chemicals Virginia, LLC. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 16, 2021. Such persons may also file a written request for a hearing on the application on or before August 16, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on May 5, 2021, AMPAC Fine Chemicals Virginia, LLC., 2820 North Normandy Drive, Petersburg, Virginia 23805–2380, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II
Levomethorphan	9210	II
Levorphanol	9220	II
Morphine	9300	II
Thebaine	9333	II
Noroxymorphone	9668	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances for the internal use intermediates or for sale to its customers. The company plans to manufacture the above-listed controlled substances in bulk for distribution to its customers. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–12812 Filed 6–16–21; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (21–035)]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than July 2, 2021 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than July 2, 2021 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or