issued an Order to Show Cause (hereinafter, OSC) to Reginald James Newsome, M.D. (hereinafter, Registrant). OSC, at 1 and 4. The OSC proposed the revocation of Registrant's Certificate of Registration No. FN0738344 at the registered address of 8865 Davis Blvd., Suite 100A, Keller, Texas 76248. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''without authority to handle controlled substances in the State of Texas, 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 Request for Final Agency Action (RFAA), submitted July 18, 2022.[1]

Findings of Fact

On February 15, 2022, the Texas Medical Board issued an Order of Temporary Suspension suspending Registrant's license to practice medicine in Texas. RFAAX C (Temporary Suspension Order), at 6. According to Texas's online records, of which the Agency takes official notice, Registrant's Texas medical license is still suspended.[2] Texas Medical Board Verification, *https://profile.tmb.state.tx.us/Search.aspx?d2678354-aafa-4f28-a2a0-96b1f74b617a* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to engage in the practice of medicine in Texas, 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).[3]

According to Texas statute, ''dispense'' means ''the delivery of a controlled substance in the course of professional practice or research, by a practitioner or person acting under the lawful order of a practitioner, to an ultimate user or research subject. The term includes the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for delivery.'' Tex. Health & Safety Code § 481.002(12) (2022). Further, a ''practitioner'' means a ''a physician, . . . licensed, registered, or otherwise permitted to distribute, dispense, analyze, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.'' *Id.* at § 481.002(39)(A).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Texas. A person must be a licensed practitioner to dispense a controlled substance in Texas. Thus, because Registrant lacks authority to practice medicine in Texas and, therefore, is not authorized to handle controlled substances in Texas, 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. FN0738344 issued to Reginald James Newsome, 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 applications of Reginald James Newsome, M.D., to renew or modify this registration, as well as any other pending application of Reginald James Newsome, M.D., for additional registration in Texas. This Order is effective October 17, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 8, 2022, 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. 2022–19989 Filed 9–14–22; 8:45 am]

BILLING CODE 4410–09–P

[1] Based on the Declaration from a DEA Diversion Investigator that the Government submitted with its RFAA, the Agency finds that the Government's service of the OSC on Registrant was adequate. RFAA, Exhibit (hereinafter, RFAAX) B, 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 written statement or corrective action plan and therefore has waived any such rights. RFAA, at 3; *see also* 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C).

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

[3] 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.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 22–9]

Bernadette U. Iguh, M.D.; Decision and Order

On November 10, 2021, the Drug Enforcement Administration (hereinafter, DEA or Government),

issued an Order to Show Cause (hereinafter, OSC), seeking to revoke the DEA Certificate of Registration, Control No. FI1112084, of Bernadette U. Iguh, M.D., (hereinafter, Respondent) of Houston, Texas, pursuant to 21 U.S.C. 824(a)(5). OSC, at 1, 3. The Government alleged that Respondent has been excluded from participation in Medicare, Medicaid, and all federal health care programs pursuant to 42 U.S.C. 1320a–7(a). *Id.* at 1.

A hearing was held before an Administrative Law Judge (hereinafter, the ALJ) on March 1, 2022. On May 19, 2022, the ALJ issued his Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (hereinafter, Recommended Decision or RD), which recommended that the Agency revoke Respondent's registration. RD, at 19. Neither party filed exceptions.

I. Findings of Fact

A. Witness Credibility

The Government presented its case through the testimony of a single witness, a DEA Diversion Investigator (hereinafter, the DI). Tr. 13–23. The ALJ found the DI's testimony to be credible and afforded it considerable weight. RD, at 5. Respondent presented her case through the testimony of a single witness, herself. Tr. 24–41. The ALJ noted some minor inconsistencies in Respondent's testimony regarding the status of her registration, as well as in Respondent's testimony regarding the dollar amount of kickbacks that she received. RD, at 9. Nonetheless, the ALJ found Respondent's testimony to be generally consistent, genuine, and credible and afforded it significant weight. *Id.* Here, the Agency adopts the ALJ's summary of both the DI's and the Respondent's testimony and the ALJ's credibility determinations. *Id.* at 3–5, 5–9.

B. Respondent's Criminal Conviction and Exclusion

Respondent is a Texas physician who holds a DEA registration to handle controlled substances in Schedules II–V. Government Exhibit (hereinafter, GX) 1 (Respondent's COR FI1112084); *see also* RD, at 2 (Stipulations 1–2). Respondent operated a solo family medicine practice in Houston from 2009 to August 2021. Tr. 26–27. From August 2009 through July 2013, Respondent submitted fraudulent certifications to Medicare for home health services. GX 4 (HHS Appeals Board Decision), at 3. Specifically, Respondent would ''certify that beneficiaries were homebound and that home health services were medically necessary regardless of whether the patients needed home health.'' [1] GX 4, at 3. According to Respondent, she did not understand the definition of ''homebound'' at the time, and she thought that she was properly evaluating the files of these patients and certifying them as homebound based on a proper medical assessment. Tr. 27, 45, 48.[2] Respondent ''was paid for each certification by the owner of [a] home health agency'' and received ''at least $17,800 [3] in kickbacks . . . for her false certifications.'' GX 4, at 3. As a result of the false certifications, ''Medicare paid about $884,585 to the home health agency.'' *Id.*

On October 3, 2017, Respondent pled guilty to one count of conspiracy to commit healthcare fraud in violation of 18 U.S.C. 1349. GX 2 (Criminal Judgment Against Respondent), at 1; *see also* RD, at 3 (Stipulation 4). Judgment was entered on March 5, 2021 and as a result of her guilty plea, Respondent was sentenced to time served and 15 months of supervised release and was ordered to pay $884,585 in restitution.[4] GX 2, at 1–5; *see also* RD, at 3 (Stipulations 4–5). Based on Respondent's guilty plea and conviction, on May 28, 2021, the Department of Health and Human Services, Office of Inspector General (hereinafter, HHS/OIG) excluded Respondent from participation in Medicare, Medicaid, and all federal health care programs for a minimum period of 10 years pursuant to 42 U.S.C. 1320a–7(a). GX 3 (HHS Mandatory Exclusion Letter), at 1; *see also* RD, at 3 (Stipulations 6–7).[5]

C. Respondent's Rehabilitation and Controlled Substance Prescribing

Following her criminal conviction, Texas permitted Respondent to continue practicing medicine. *Id.* at 30. In August 2021, Respondent's medical license was put on a three-year probation that limited Respondent to group practice and required that she complete 12 hours of CME (four hours of billing and eight hours of ethics). *Id.* at 31–32. Respondent testified that, as of March 1, 2022, she still had two more months of probation and that she has been ''100 percent compliant'' thus far, and current in her restitution payments. *Id.* at 30, 52. Respondent also testified that she has completed 30 total hours of CME, including the 12 required hours of billing and ethics, as well as additional hours in opioid and diversion awareness screening. *Id.* at 31–33. Since her conviction, Respondent has worked in a group medical practice and has been teaching nursing school clinicals.[6] *Id.* at 33. Respondent testified that because of what she has learned, she has completed community service, has given lectures, and has talked to many doctors about what she went through ''so they won't have to go through it'' and to teach them about the risks and the potential consequences. *Id.* at 40–41. Additionally, Respondent testified that she provided records and testimony in matters related to home health agencies to the Government, and stated that, as of March 1, 2022, she has given the Government 12 interviews. *Id.* at 34–35. Respondent testified that she was helping the Government voluntarily, not as part of her criminal settlement or medical board discipline. *Id.* at 36.[7]

Regarding Respondent's controlled substance prescribing, Respondent noted that her criminal conviction did not relate at all to controlled substances and that the Texas Medical Board did not restrict her ability to prescribe controlled substances. *Id.* at 30, 33. Regarding her previous practices related to controlled substances, Respondent testified that she implemented safety measures to ensure that her prescribing was appropriate including: (1) checking a prescription monitoring system before issuing or renewing any controlled substance prescription to a patient; (2) restricting such patients to one pharmacy of their choice; and (3) referring any pain management patients to two pain specialists. *Id.* 36–39.

[1] Respondent testified that she charged for these orders and billed them to Medicare. Tr. 28. She explained that if she saw a patient in Houston, she would charge the patient $100, while if she saw a patient away from Houston, because she had to travel, she would charge the patient $150. *Id.* Respondent admitted that these charges were ''very inappropriate,'' but stated that at the time, she did not know that they were inappropriate. *Id.*

[2] Respondent testified that she now understands that ''homebound'' has a much narrower definition than she had previously thought, and pertained to patients who have a medical necessity for home care and who are ''not able to go from place to place, other than [a] medical office or the clinic for their medical needs.'' *Id.* at 45–46.

[3] Respondent testified that she only received ''up to $15,000.'' *Id.* at 52.

[4] Respondent testified that this was ''money that they said that [her] signature allowed the home health people to make'' and that she did not profit from it. Tr. 51–52.

[5] Respondent later appealed her exclusion, not challenging its imposition but its length of 10 years. *See* GX 4 (HHS Appeals Board Decision), at 1.

[6] Respondent stated that she was a nurse for 20 years before she went to medical school. *Id.* at 34.

[7] When asked why she was conducting these interviews, Respondent stated, ''I don't know if I have to go in attendance, but I worked so hard to come to where I am right now, and I felt like what happened to me should not—the hours you have to pay for, the price for what happened to me, because I have been—I have done everything. I think life is difficult for the years I've paid.'' *Id.* at 35–36.

II. Discussion

Under Section 824(a) of the Controlled Substances Act (hereinafter, CSA), a registration ''may be suspended or revoked'' upon a finding of one or more of five grounds. 21 U.S.C. 824. The ground in 21 U.S.C. 824(a)(5) requires that the registrant ''has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of Title 42.'' *Id.* Here, there is no dispute in the record that Respondent is mandatorily excluded from federal health care programs under 42 U.S.C. 1320a–7(a). The Government has presented substantial evidence of Respondent's exclusion and the underlying criminal conviction that led to that exclusion and Respondent has admitted to the same. *See* GX 2–4; Respondent's Post-Hearing Brief, at 1. Accordingly, the Agency will sustain the Government's allegation that Respondent has been excluded from participation in a program pursuant to section 1320a–7(a) of Title 42 and find that the Government has established that a ground exists upon which a registration could be revoked pursuant to 21 U.S.C. 824(a)(5).[8] Where, as here, the Government has met its *prima facie* burden of showing that a ground for revocation exists, the burden shifts to the Respondent to show why she can be entrusted with a registration. *See Stein,* 84 FR 46972.

III. Sanction

The Government has established grounds to deny a registration; therefore, the Agency will review any evidence and argument the Respondent submitted to determine whether or not the Respondent has presented ''sufficient mitigating evidence to assure the Administrator that [she] can be trusted with the responsibility carried by such a registration.'' *Samuel S. Jackson, D.D.S.,* 72 FR 23,848, 23,853 (2007) (quoting *Leo R. Miller, M.D.,* 53 FR 21,931, 21,932 (1988)). '' 'Moreover, because ''past performance is the best predictor of future performance,'' *ALRA Labs, Inc.* v. *Drug Enf't Admin.,* 54 F.3d 450, 452 (7th Cir. 1995), [the Agency] has repeatedly held that where a registrant has committed acts inconsistent with the public interest, the registrant must accept responsibility for [her] actions and demonstrate that [she] will not engage in future misconduct.' '' *Jayam Krishna-Iyer, M.D.,* 74 FR 459, 463 (2009) (quoting *Medicine Shoppe,* 73 FR 364, 387 (2008)); *see also Samuel S. Jackson, D.D.S.,* 72 FR 23,853; *John H. Kennedy, M.D.,* 71 FR 35,705, 35,709 (2006); *Prince George Daniels, D.D.S.,* 60 FR 62,884, 62,887 (1995). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual respondent; 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 8247, 8248 (2016).

A. Acceptance of Responsibility

Here, Respondent stated multiple times that she takes full responsibility for her actions and said, ''I learned that you can't just sign signatures like I signed to get me in trouble, and you can't just accept money for signing signatures that I signed. And that has been a very big lesson on my part.'' Tr. 27, 40–41; *see also* Respondent's Post-Hearing Brief, at 3. Respondent testified that she now understands that what she did was ''bad,'' because it was ''unethical,'' Tr. 41; however, it is unclear how Respondent did not know prior to being caught that she ''wasn't supposed to fill medicine and at the same time take money.'' Tr. 49. It is noted that Respondent pled guilty to the criminal charges against her and self-reported her conviction to the Texas Medical Board and that she testified that she can be trusted with a DEA registration. Tr. 30–31, 41; GX 2, at 1; *see also* RD, at 3 (Stipulation 4). Nonetheless, the Agency finds Respondent's acceptance of responsibility to be insufficient due to her attempts to minimize her misconduct and failure to acknowledge its full scope. *See Stein,* 84 FR at 46972.

Early in her testimony, Respondent stated that she was convicted because she ''wasn't so sure of homeboundedness,'' but noted that she pled guilty because ''it was [her] signature.'' Tr. 27. However, Respondent also testified that she properly evaluated the files of these patients and that when she signed an order related to their ''homeboundedness,'' it was based on a proper medical assessment. *Id.* at 28. On cross-examination, Respondent clarified, ''At that point, I thought it was but I didn't know—understand the definition. There was a different definition of homeboundedness. I did not understand it. That's why I said I had to plead.'' *Id.* at 45. Ultimately, Respondent's emphasis on her ignorance as the cause of her misconduct, in tandem with Respondent's notable lack of emphasis on the damages she caused, both serve to downplay the extent to which her own actions and decisions were harmful. Further, Respondent testified that she signed the fraudulent certifications to Medicare ''not knowing that some home health agencies [were] not doing what they're supposed to do'' in an attempt to shift blame from herself to the home health agencies. *Id.* at 27–28. Finally, Respondent minimized her financial gain in direct contradiction with the record. As the ALJ noted, Respondent understated the amount that she received in kickbacks—testifying that she only received what the home health agency paid to her, which was ''up to $15,000,'' while the ALJ in the HHS Appeals Board Decision found that Respondent received $17,800. RD, at 15; *see also* Tr. 52; GX 4, at 3.[9]

[8] The Government correctly argues, Government's Post-Hearing Brief, at 5–6, and Respondent did not rebut, Respondent's Post-Hearing Brief, at 3, that the underlying conviction forming the basis for a registrant's mandatory exclusion from participation in federal health care programs need not involve controlled substances to provide the grounds for revocation or denial pursuant to section 824(a)(5). *Jeffrey Stein, M.D.,* 84 FR 46968, 46971–72 (2019); *see also Narciso Reyes, M.D.,* 83 FR 61678, 61681 (2018); *KK Pharmacy,* 64 FR 49507, 49,510 (1999) (collecting cases); *Melvin N. Seglin, M.D.,* 63 FR 70431, 70433 (1998); *Stanley Dubin, D.D.S.,* 61 FR 60727, 60728 (1996).

[9] Even if Respondent's acceptance of responsibility for her wrongdoing had been sufficient such that the Agency would reach the matter of remedial measures, Respondent has not offered adequate remedial measures to assure the Agency that she can be trusted with registration. *See Carol Hippenmeyer, M.D.,* 86 FR 33748, 33,773 (2021). Respondent has been compliant in completing her probation as well as current in her restitution payments, Tr. 30, 52, and she has completed community service, has given lectures, has talked to other doctors, and has conducted voluntary interviews with the Government regarding her experience. *Id.* at 34–36, 40–41. However, as the ALJ stated, it is difficult ''to gauge the impact, if any, of the outreach the Respondent has conducted with other medical professionals given her very limited and non-specific testimony on her efforts in this regard.'' RD, at 16. Moreover, Respondent's statement that she conducted this outreach to other medical professionals ''so they won't have to go through it'' suggests that Respondent has failed to grasp the greater harm caused by her misconduct beyond what she has personally suffered. Tr. 41. Similarly, Respondent's explanation as to why she provided interviews to the Government in which she concluded that ''life [was] difficult for the years [she has] paid,'' further suggests that she has not truly learned from her experience and continues to only understand the negative consequences of her actions as those that have impacted her own life. *Id.* at 35–36. In both instances, Respondent's focus on the harm caused to herself rather than on the harm caused to her patients and the community undermines the remedial value of her efforts. Finally, although Respondent testified to completing 30 total hours of CME, including additional hours in opioid and diversion awareness screening beyond what was required by her probation, Tr. 31–33, Respondent

Continued

B. Specific and General Deterrence

In addition to acceptance of responsibility, the Agency considers both specific and general deterrence when determining an appropriate sanction. *Daniel A. Glick, D.D.S.,* 80 FR 74800, 74810 (2015). Specific deterrence is the DEA's interest in ensuring that a registrant complies with the laws and regulations governing controlled substances in the future. *Id.* General deterrence concerns the DEA's responsibility to deter conduct similar to the proven allegations against the respondent for the protection of the public at large. *Id.* In this case, the Agency believes a sanction of revocation would deter Respondent and the general registrant community from unethical behavior involving the acceptance of money for unlawful and unethical acts. It is not difficult to imagine, as the Agency has repeatedly encountered, this situation repeating itself in the context of receiving money for controlled substance prescriptions.

C. Egregiousness

The Agency also looks to the egregiousness and the extent of the misconduct as significant factors in determining the appropriate sanction. *Garrett Howard Smith, M.D.,* 83 FR 18882, 18910 (2018) (collecting cases). In the current matter, Respondent received $17,800 in kickbacks over a period of almost four years and cost Medicare $884,585. GX 4, at 3. Moreover, Respondent's exclusion letter from HHS/OIG indicates that in Respondent's case, the minimum exclusion period of five years was increased to ten years due to three aggravating factors: (1) the financial loss to a Government program was over $50,000; (2) Respondent's acts underlying her conviction lasted for over one year; and (3) Respondent's sentence included incarceration, although Respondent was sentenced to time served and location monitoring for a period of 15 months.[10] *Id.* at 1–2; *see also Michael Jones, M.D.,* 86 FR 20728, 20732 (2021) (considering the length of the HHS exclusion in assessing egregiousness).

As discussed above, to avoid sanction when grounds for revocation exist, a respondent must convince the Administrator that she can be entrusted with a registration. The Agency finds that Respondent has not met this burden. Accordingly, the Agency 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. FI1112084 issued to Bernadette U. Iguh, 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 to renew or modify this registration, as well as any other pending application of Bernadette U. Iguh, M.D., for registration in Texas. This Order is effective October 17, 2022.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 8, 2022, 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. 2022–19975 Filed 9–14–22; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Mohammad H. Said, M.D.; Decision and Order

On July 19, 2021, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Mohammad H. Said, M.D. (hereinafter, Registrant). OSC, at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. AS9144786 at the registered address of 524 East Division, P.O. Box 40, Ephrata, Washington 98823. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''without authority to handle controlled substances in the State of Washington, 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 Request for Final Agency Action (RFAA), submitted August 1, 2022.[1]

Findings of Fact

On January 28, 2021, the State of Washington, Department of Health, Washington Medical Commission, issued an Order indefinitely suspending Registrant's license to practice medicine in Washington. RFAAX 4 (State of Washington, Dept. of Health Order dated January 28, 2021), at 2, 13–14. According to Washington's online records, of which the Agency takes official notice, Registrant's license is still suspended. [2] Washington State Department of Health Provider Credential Search, *https://fortress.wa.gov/doh/providercredentialsearch* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not currently licensed to engage in the practice of medicine in Washington, 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

failed to provide any documentation certifying her completion of these hours.

[10] HHS/OIG considered as a mitigating factor that Respondent cooperated with federal and state officials. GX 3, at 2.

[1] Based on a Declaration from a DEA Diversion Investigator and a Declaration from a federal government contractor assigned as a data analyst to the DEA Office of Chief Counsel, the Agency finds that the Government's service of the OSC on Registrant was adequate. RFAA Exhibit (hereinafter, RFAAX) 2, at 2; RFAAX 5, at 1. 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 written statement or corrective action plan and therefore has waived any such rights. RFAA, at 1–2; *see also* 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C).

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