



## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Michael Fletcher, M.D.; Decision and Order

On June 29, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Michael Fletcher, M.D., of Cincinnati, OH (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 4. The OSC proposed the revocation of Registrant's Certificate of Registration No. FF0291005, alleging that Registrant's registration should be revoked because Registrant is "currently without authority to handle controlled substances in the State of Ohio, the state in which [he is] registered with DEA." RFAAX 1, at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file with DEA a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2-3 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.<sup>1</sup> "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 C.F.R.] § 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 1; *see also* 21 CFR 1316.67.

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<sup>1</sup> Based on the Government's submissions in its RFAA dated November 16, 2023, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the RFAA's included exhibits indicate that Registrant was served a copy of the OSC via email on July 7, 2023, and Registrant acknowledged receipt on July 9, 2023. RFAAX 3-4.

## 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, effective May 11, 2023, the State Medical Board of Ohio issued an order prohibiting Registrant from prescribing, dispensing, or otherwise professionally utilizing controlled substances. RFAAX 1, at 2. According to Ohio online records, of which the Agency takes official notice,<sup>2</sup> Registrant’s Ohio medical license is active but “limited and restricted by a prohibition against prescribing, dispensing, [and/or] utilizing controlled substances in the course of practice.” eLicense Ohio Professional Licensure License Look-Up, [https://elicense.ohio.gov/oh\\_verifylicense](https://elicense.ohio.gov/oh_verifylicense) (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to handle controlled substances in Ohio, 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).<sup>3</sup>

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<sup>2</sup> 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 e-mail to the other party and to Office of the Administrator, Drug Enforcement Administration at [dea.addo.attorneys@dea.gov](mailto:dea.addo.attorneys@dea.gov).

<sup>3</sup> 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

According to Ohio statute, “[n]o person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog,” except pursuant to a “prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose.” Ohio Rev. Code Ann. sections 2925.11(A), (B)(1)(d) (West 2024). Further, a “[l]icensed health professional authorized to prescribe drugs” or “prescriber” means “an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice.” *Id.* section 4729.01(I). The definition further provides a limited list of authorized prescribers, the relevant provision of which is “[a] physician authorized under Chapter 4731[ ] of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.” *Id.* section 4729.01(I)(5). Additionally, Ohio law permits “[a] licensed health professional authorized to prescribe drugs, if acting in the course of professional practice, in accordance with the laws regulating the professional's practice” to prescribe or administer schedule II, III, IV, and V controlled substances to patients. *Id.* section 3719.06(A)(1)(a)-(b).

Here, the undisputed evidence in the record is that although Registrant is currently authorized to practice medicine in Ohio, Registrant is not authorized to handle controlled substances in accordance with his practice of medicine. Thus, because Registrant lacks authority to handle controlled substances in Ohio, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant’s DEA registration be revoked.

## **ORDER**

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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). 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, 11120 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

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. FF0291005 issued to Michael Fletcher, 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 Michael Fletcher, M.D., to renew or modify this registration, as well as any other pending application of Michael Fletcher, M.D., for additional registration in Ohio. This Order is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

#### **SIGNING AUTHORITY**

This document of the Drug Enforcement Administration was signed on September 20, 2024, 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. 2024-22205 Filed: 9/26/2024 8:45 am; Publication Date: 9/27/2024]