Missouri 64137–1418 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import finished dosage unit products containing gamma-hydroxybutryic acid and marihuana extracts for clinical trial studies. These marihuana extracts compounds are listed under drug code 7350. No other activity for these drug codes is authorized for this registration. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a) (2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

Dated: October 19, 2018.

John J. Martin,

Assistant Administrator.

[FR Doc. 2018–23686 Filed 10–29–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Eric Lee Knight, M.D.; Decision and Order

On February 6, 2018, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Eric Lee Knight, M.D. (hereinafter, Registrant), of Derry, New Hampshire. Order to Show Cause (hereinafter, OSC), at 1. The OSC proposes the revocation of Registrant's Certificate of Registration on the ground that he does ''not have authority to handle controlled substances in the State of New Hampshire, the state in which . . . [he is] registered with the DEA.'' *Id.* (citing 21 U.S.C. 823(f) and 824(a)(3)).

Regarding jurisdiction, the OSC alleges that Registrant holds DEA Certificate of Registration No. BK7282940 at the registered address of 93 ½ Walnut Hill Road, Derry, New Hampshire 03038.[1] OSC, at 1. This registration authorizes Registrant to dispense controlled substances in schedules II through V as a practitioner. *Id.* The OSC alleges that this registration expires on December 31, 2018. *Id.*

The substantive ground for the proceeding, as alleged in the OSC, is that Registrant is ''without authority to handle controlled substances in New Hampshire, the state in which [he is] registered with the DEA.'' *Id.* Specifically, the OSC alleges that the State of New Hampshire Board of Medicine (hereinafter, Board) issued an Order of Emergency License Suspension and Notice of Hearing on September 25, 2017. *Id.* at 1–2. On the following day, September 26, 2017, Registrant entered into a written agreement ''not to practice medicine [including the writing of] prescriptions . . . until further order of the Board.'' *Id.* at 2.

The OSC notifies Registrant of his right to request a hearing on the allegations or to submit a written statement while waiving his 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 notifies Registrant of the opportunity to submit a corrective action plan. OSC, at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

In a Declaration dated April 27, 2018, a Diversion Investigator (hereinafter, DI), who describes herself as being assigned to the DEA Boston Field Division-Manchester (New Hampshire) District Office, states that after two unsuccessful attempts at serving the OSC on Registrant, she and two Task Force Officers traveled to the residence of Registrant on February 16, 2018, and ''[a]fter displaying our credentials to Dr. Knight, I presented the original copy of the . . . [OSC] to Dr. Knight.'' (Government Exhibit (hereinafter, GX) 8 at 2–3 (Declaration of DEA Diversion Investigator).

In its Request for Final Agency Action dated May 3, 2018, the Government represents that ''[m]ore than 30-days have passed since Registrant received the . . . [OSC]; however, Registrant has not submitted to DEA a request for hearing.'' Request for Final Agency Action, at 2. In its Request for Final Agency Action—Addendum dated September 26, 2018, the Government represents that Registrant has not ''corresponded in writing or otherwise with regard to his position on a hearing before DEA.'' Request for Final Agency Action—Addendum, at 2. The Government requests the issuance of a Final Order revoking Registrant's DEA registration. *Id.* at 4.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government personally served the OSC on Registrant on February 16, 2018. I also find that more than 30 days have now passed since the date the Government served the OSC. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent him, 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 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. BK7282940 at the registered address of 93 ½ Walnut Hill Road, Derry, New Hampshire 03038. GX 1 (Certification of Registration), 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 December 31, 2018. *Id.*

The Status of Registrant's State License

In this case, the Board issued an Order of Emergency License Suspension and Notice of Hearing on September 25, 2017. The Board's Order suspended Registrant's New Hampshire medical license until further order of the Board. GX 3 (Order of Emergency License Suspension and Notice of Hearing), at 13. On October 9, 2017, the Board accepted Registrant's agreement ''not to practice medicine . . . [including the writing of] prescriptions . . . until further order of the Board.'' GX 4 (Preliminary Agreement Not to Practice), at 1.

According to New Hampshire's online records, of which I take official notice, Registrant's license to practice medicine is still suspended.[2] New Hampshire

[1] The OSC erroneously lists the number of Registrant's address on Walnut Hill Road as 92 ½.

[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

Online Licensing, *http://www.nhlicenses.nh.gov* (last visited October 18, 2018).

Accordingly, I find that Registrant currently is not licensed to engage in the practice of medicine in New Hampshire, 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 71,371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh 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., Hooper, supra,* 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); *Blanton, supra,* 43 FR at 27,617.

In this case, according to the Board, the Registrant is alleged to have engaged in numerous acts of professional misconduct based upon, *inter alia,* inappropriate personal relationships with patients, as well as his issuance of controlled substance prescriptions for no legitimate medical purpose in violation of New Hampshire law. GX 3, at 3–9. As a result of Registrant's alleged misconduct, on September 25, 2017, the Board issued its Order of Emergency License Suspension and Notice of Hearing. On September 26, 2017, Registrant entered into a Preliminary Agreement Not to Practice, whereby he agreed, *inter alia,* ''not to practice medicine . . . [including the writing of] prescriptions . . . until further order of the Board.'' GX 4, at 1. On October 9, 2017, the Board accepted Registrant's Preliminary Agreement Not to Practice. GX 4, at 3. Consequently, Registrant is not currently authorized to handle controlled substances in the State of New Hampshire, the State in which he is registered with the Agency and, therefore, he is not entitled to maintain his DEA registration. *Hooper, supra,* 76 FR at 71,371–72, *Blanton, supra,* 43 FR at 27,617. Accordingly, I will order that Registrant's registration be revoked, that any pending application for the renewal or modification of his registration be denied, and that any pending application by Registrant for a registration in New Hampshire be denied. 21 U.S.C. 824(a)(3) and 823(f).

Order

Pursuant to 28 CFR 0.100(b) and the authority thus vested in me by 21 U.S.C. 824(a), I order that DEA Certificate of Registration No. BK7282940 issued to Eric Lee Knight, M.D., be, and it hereby is, revoked. Pursuant to 28 CFR 0.100(b) and the authority thus vested in me by 21 U.S.C. 823(f), I further order that any pending application of Eric Lee Knight, M.D., to renew or modify this registration, as well as any other pending application by him for registration in the State of New Hampshire, be, and it hereby is, denied. This Order is effective November 29, 2018.

Dated: October 18, 2018.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2018–23708 Filed 10–29–18; 8:45 am]

BILLING CODE 4410–09–P

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 within 20 calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Registrant files a motion, the Government shall have 20 calendar days to file a response.

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: The Federal Mine Safety and Health Act of 1977 and the Code of Federal Regulations govern the application, processing, and disposition of petitions for modification. This **Federal Register** notice notifies the public that MSHA has investigated and issued a final decision on certain mine operator petitions to modify a safety standard.

ADDRESSES: Copies of the final decisions are posted on MSHA's website at *https://www.msha.gov/regulations/rulemaking/petitions-modification.* The public may inspect the petitions and final decisions during normal business hours in MSHA's Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202. All visitors are required to check in at the receptionist's desk in Suite 4E401.

FOR FURTHER INFORMATION CONTACT: Barbara Barron at 202–693–9447 (voice), *barron.barbara@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101 of the Federal Mine Safety and Health Act of 1977, a mine operator may petition and the Secretary of Labor (Secretary) may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a