



**BILLING CODE: 4410-09-P**

**DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION**

**WILLIAM A. SANPABLO, M.D.  
DECISION AND ORDER**

On December 3, 2018, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William A. Sanpablo, M.D. (Registrant), of Philippi, West Virginia. The Show Cause Order proposed the revocation of Registrant’s DEA Certificate of Registration No. AS8766480 on the ground that he “ha[s] no state authority to handle controlled substances.” Government Exhibit (GX) 2 (Order to Show Cause) to Government’s Request for Final Agency Action (RFAA), at 1 (citing 21 U.S.C. § 824(a)(3)). For the same reason, the Order also proposed the denial of “any applications for renewal or modification of such registration and any applications for any other DEA registrations.” *Id.*

With respect to the Agency’s jurisdiction, the Show Cause Order alleged that Registrant is the holder of Certificate of Registration No. AS8766480, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V, at the registered address of 2 Healthcare Drive, Philippi, West Virginia. *Id.* The Order also alleged that this registration does not expire until February 29, 2020. *Id.*

Regarding the substantive grounds for the proceeding, the Show Cause Order alleged that on October 10, 2018, Registrant “entered into a Consent Order with the West Virginia Board of Medicine permanently surrendering [his] license to practice medicine and surgery in West Virginia.” *Id.* The Show Cause Order alleged that, as a result, he is “currently without authority to handle controlled substances in the State of West Virginia, the [S]tate in which [he is]

registered with the DEA.” *Id.* Based on his “lack of authority to handle controlled substances in the State of West Virginia,” the Order asserted that “DEA must revoke” his registration. *Id.* at 2 (citing 21 U.S.C. § 824(a)(3); 21 CFR 1301.37(b)).

The Show Cause Order notified Registrant of (1) his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, (2) the procedure for electing either option, and (3) the consequence for failing to elect either option. *Id.* (citing 21 CFR § 1301.43). The Order also notified Registrant of his right to submit a corrective action plan. *Id.* at 2-3 (citing 21 U.S.C. § 824(c)(2)(C)).

With respect to service, a Diversion Investigator (DI) in the Clarksburg Resident Office of DEA’s Louisville Field Division executed a Declaration on February 6, 2019, stating that he “personally served Registrant with the [Show Cause Order]” on December 6, 2018. GX 4 (Declaration of DI) to RFAA, at 1.

On February 13, 2019, the Government forwarded its Request for Final Agency Action and evidentiary record to my Office. In its Request, the Government represents that more than 30 days have passed since Registrant had been served with the Show Cause Order and that “Registrant has not requested a hearing and has not otherwise corresponded or communicated with DEA regarding the Order served on him.” RFAA, at 1. Based on the Government’s representation and the record, I find that more than 30 days have passed since the Show Cause Order was served on Registrant, and he has neither requested a hearing nor submitted a written statement in lieu of a hearing. *See* 21 CFR 1301.43(d). Accordingly, I find that Registrant has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government and the findings below. *See id.* I make the following findings.

## FINDINGS OF FACT

Registrant is the holder of DEA Certificate of Registration No. AS8766480 pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner at the registered address of 2 Healthcare Drive, Philippi, West Virginia. GX 1 (Certification of Registration Status) to RFAA, at 1. This registration does not expire until February 29, 2020. *Id.*

On October 10, 2018, the West Virginia Board of Medicine entered into a “Consent Order” with Registrant. GX 3 to RFAA, at 69-76. According to the Consent Order, Registrant “acknowledges that he is unable to practice medicine and surgery with reasonable skill and safety due to physical or mental impairment, including deterioration through the aging process and loss of motor skills and that he is ready to retire from the practice of medicine.” *Id.* at 70. Registrant agreed to have his “license to practice medicine and surgery in West Virginia . . . PERMANENTLY SURRENDERED to the Board.” *Id.* at 74. As a result, he further agreed that he “may not practice medicine and surgery in West Virginia” and that he is “permanently ineligible for licensure by the West Virginia Board of Medicine.” *Id.*<sup>1</sup>

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<sup>1</sup> The DEA registration is under the name “William A. Sanpablo,” but the West Virginia Board of Medicine’s Consent Order in the administrative record refers to the state registrant as “William Amaro San Pablo.” *Compare* GX 1 to RFAA, at 1 *with* GX 3 to RFAA, at 1, 70. After reviewing the Agency’s registration records, of which I take official notice, and comparing them to the certified copies of the West Virginia Board’s documents included in the administrative record, I find that this discrepancy appears to be a clerical error for at least two independent reasons. First, the “E-Signature” for the DEA registration in this case is by “William A. San Pablo,” which is consistent with the name in the aforementioned West Virginia Board of Medicine records in the case. Second, the Agency’s registration records state that Registrant’s West Virginia medical license number is “11963,” which is identical to the West Virginia medical license number set forth in the Consent Order for William Amaro San Pablo. *E.g.*, GX 3 to RFAA, at 70. Thus, I find that the West Virginia Board’s Consent Order’s reference to “William Amaro San Pablo” and the DEA registration’s reference to “William A. Sanpablo” are to the same practitioner.

Under the Administrative Procedure Act (APA), an agency “may take official notice of facts at any stage in a proceeding – even in the final decision.” U.S. Dept. of Justice, *Attorney General’s Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA’s regulations, Registrant is “entitled on timely request to an opportunity to show to the contrary.” 5 U.S.C. § 556(e); *see also* 21 CFR 1316.59(e). To allow Registrant the opportunity to refute the facts of which I take official notice, Registrant may file a motion for reconsideration within 15 calendar days of service of this order which shall commence on the date this order is mailed.

In addition, I take official notice of the results of a search of the West Virginia Board of Medicine's license verification webpage showing that, as of the date of this Decision, Registrant's West Virginia medical license remains "[s]urrendered."<sup>2</sup> Accordingly, I find that Registrant currently does not possess a license to practice medicine in the State of West Virginia, 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 (CSA), "upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." Also, DEA has 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*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton*, 43 FR 27616 (1978) ("State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.").

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,

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<sup>2</sup> *See* <https://wvbom.wv.gov/public/search/details.asp>. I take official notice of this fact pursuant to the same authority set forth *supra* in footnote 1.

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 Act, DEA has long held 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 engages in professional practice. *See, e.g., Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988); *Blanton*, 43 FR 27616 (1978).

Here, there is no dispute over the material fact that Registrant surrendered his West Virginia medical license and is thus no longer authorized to dispense controlled substances in West Virginia, the State in which he is registered. *See Richard Jay Blackburn, D.O.*, 82 FR 18669, 18672 (2017). Accordingly, Registrant is not entitled to maintain his DEA registration, and I will therefore order that his registration be revoked.

**ORDER**

Pursuant to the authority vested in me by 21 U.S.C. §§ 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. AS8766480, issued to William A. Sanpablo, M.D., be, and it hereby is, revoked. I further order that any pending application of William A. Sanpablo to renew or modify the above registration, or any pending application of William A. Sanpablo for any other DEA registration in the State of West Virginia, be, and it hereby is, denied. This Order is effective [INSERT DATE THIRTY (30) DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Dated: February 27, 2019

Uttam Dhillon  
Acting Administrator

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