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 physician possess state authority in order to be deemed a practitioner under the Act, DEA has 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 practices medicine. *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); *see also Hooper* v. *Holder,* 481 Fed. Appx. at 828.

As a consequence of the Board's Final Decision and Order, Respondent is not currently authorized to dispense controlled substances in Massachusetts, the State in which he is registered. Because the CSA makes clear 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 both obtaining and maintaining a practitioner's registration, it is of no consequence that the Board's Order provided that he may petition to stay the suspension upon meeting certain conditions. *Cf. Hooper* v. *Holder,* 481 F. App'x at 828 (upholding revocation of a physician's registration as based on a reasonable interpretation of the CSA, notwithstanding that the physician's medical license was subject to a suspension of known duration); *see also James L. Hooper,* 76 FR 71371, 71371–72 (2011).[6] As of this date, Respondent is not currently authorized to dispense controlled substances in Massachusetts, and therefore, he is not entitled to maintain his registration in that State. Accordingly, I will order that his registration be revoked and that any pending application to renew his registration, or for any other registration in the Commonwealth of Massachusetts be denied.

[6] By contrast, Respondent's suspension is of unknown duration.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. BC6966381 issued to Yoon Choi, M.D., be, and it hereby is, revoked. Pursuant to the authority vested in me by 21 U.S.C. 823(f), I further order that any application of Yoon Choi, M.D., to renew or modify this registration, or for any other registration in the Commonwealth of Massachusetts, be, and it hereby is, denied. This Order is effective November 27, 2017.

Dated: October 17, 2017.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2017–23329 Filed 10–25–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Harinder Takyar, M.D.; Decision and Order

On January 24, 2017, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause to Harinder Takyar, M.D. (hereinafter, Respondent) of Mesa, Arizona. GX 4. The Show Cause Order proposed the revocation of Respondent's Certificate of Registration on the grounds that Respondent does ''not have authority to handle controlled substances in the State of Arizona,'' the State in which he is registered, and that Respondent's ''registration would be inconsistent with the public interest.'' GX 4, at 1 (citing 21 U.S.C. 823(f), 824(a)(3) and (4)).

As to the Agency's jurisdiction, the Show Cause Order alleged that Respondent holds DEA Certificate of Registration No. BT9321150 which authorizes him to dispense controlled substances in schedules II through V as a practitioner at the registered address of 9341 East McKellips Road, Mesa, Arizona 85207. GX 4, at 1. *See also* GX 1 (Controlled Substance Registration Certificate) (including ''Reform Physicians'') and GX 2, at 1 (Certification of Registration History) (9341 E McKellips Road, Mesa, AZ 85207–8520). The Show Cause Order alleged that this registration expires on November 30, 2019. GX 4, at 1. *See also* GX 2, at 1.

As the first substantive ground for the proceeding, the Show Cause Order alleged that Respondent is ''currently without authority to handle controlled substances in Arizona.'' GX 4, at 1. It alleged that, on December 21, 2016, Respondent ''entered into an Interim Consent Agreement for Practice Restriction with the Arizona Medical Board'' which ''prohibited [Respondent] from engaging in the practice of medicine in the State of Arizona . . . until he applies to the Executive Director and receives permission to do so.'' GX 4, at 1 and GX 3, at 5 (Interim Consent Agreement For Practice Restriction), respectively. The Show Cause Order alleged that Respondent was ''still currently prohibited from practicing medicine in the state in which . . . [he is] registered with the DEA . . . [and] therefore, the DEA must revoke . . . [his] DEA . . . [registration] based upon . . . [his] lack of authority to handle controlled substances in the State of Arizona.'' GX 4, at 2 (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3)).

As the second substantive ground for the proceeding, the Show Cause Order alleged that the Arizona Attorney General's Office and the Pinal County (Arizona) Task Force ''initiated an investigation of . . . [Respondent's] medical practice after receiving information from a cooperating source that . . . [he] routinely prescribed large quantities of oxycodone, a Schedule II controlled substance, without performing an examination.'' GX 4, at 2. After summarizing two law enforcement officers' undercover visits to Respondent's medical practice, the Show Cause Order alleged that, concerning the first undercover officer, Respondent prescribed schedule II and IV controlled substances ''after conducting only a cursory medical examination[, or no physical examination but falsely documenting a full physical exam] . . . without inquiring about whether the agent experienced sleeplessness, anxiety, or panic[, and without] . . . properly execut[ing] . . . a prescription . . . as required by 21 CFR 1306.05(a) by not listing the full address of the patient on the face of the prescription . . . [or] maintain[ing] an adequate patient chart.'' GX 4, at 2–3.

Concerning the second undercover officer, the Show Cause Order alleged that Respondent prescribed a schedule II controlled substance the first time ''despite the agent informing . . . [Respondent] that he felt no pain during . . . [Respondent's] brief examination of him . . . [, and a second time without] conduct[ing] a physical exam . . . and falsely documenting a full physical

exam.'' GX 4, at 4. The Show Cause Order concluded that Respondent ''unlawfully prescribed controlled substances to undercover law enforcement officers for other than a legitimate medical purpose and outside the usual course of professional practice'' in violation of Federal and State law, and violated Arizona medical practice standards when he ''failed to maintain appropriate patient records that supported the prescribing of controlled substances and . . . failed to conduct an appropriate physical examination, or establish a . . . doctor-patient relationship before prescribing a controlled substance.'' GX 4, at 2 (citing 21 CFR 1306.04(a), Ariz. Rev. Stat. § 32–1401.27(e), (j), (q), and (SS), and Ariz. Rev. Stat. § 32–901(15)).

The Show Cause Order notified Respondent 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. GX 4, at 5 (citing 21 CFR 1301.43). The Show Cause Order also notified Respondent of the opportunity to submit a Corrective Action Plan. GX 4, at 5 (citing 21 U.S.C. 824(c)(2)(C)).

By letter dated February 22, 2017, Respondent, by his counsel, asked the Administrative Law Judge for ''an extension of 30 days within which to file a written request for hearing concerning the Order to Show Cause.'' GX 5. The letter alleged that ''good cause'' supported the request because Respondent's counsel ''has only recently been retained,'' the ''discovery concerning the listed allegations is voluminous,'' and counsel ''needed [time] to gather necessary information concerning the allegations . . . and more effectively complete the request for hearing letter.'' *Id.* By Order dated March 1, 2017, the Chief Administrative Law Judge, John J. Mulrooney, II, granted an ''enlargement of the time allotted to request a hearing . . . to the extent (but only to the extent) that, if the Respondent elects to request a hearing, he must do so no later than March 17, 2017.'' GX 6, at 2 (Order Granting in Part the Respondent's Request for an Extension of the Time to File a Request for Hearing).

By Motion dated March 27, 2017, the Government requested that further proceedings be terminated because ''[a]s of the date of this filing, Respondent has not notified this tribunal or Government counsel of any request for hearing.'' GX 7, at 2 (Government's Motion for Termination of Proceedings). By Order dated April 3, 2017, the Presiding Judge issued an Order Terminating Proceedings, finding that ''no request for a hearing was filed.'' GX 8 (Order Terminating Proceedings).

I find that the Government's service of the Show Cause Order on Respondent was legally sufficient, that the Respondent did not timely request a hearing, and that Respondent has waived his right to a hearing and his right to submit a written statement. 21 CFR 1301.43(d). I therefore issue this Decision and Order based on the record submitted by the Government. 21 CFR 1301.43(e).

Findings of Fact

Respondent's DEA Registration

Respondent currently holds DEA practitioner registration BT9321150 authorizing him to dispense controlled substances in schedules II through V at the address of Reform Physicians, 9341 E McKellips Road, Mesa, AZ 85207–8520. GX 1. This registration expires on November 30, 2019. *Id.*

The Investigations of Respondent and the Status of Respondent's State Licenses

On December 21, 2016, Respondent and the Executive Director of the Arizona Medical Board (hereinafter, ''Board'') signed an ''Interim Consent Agreement for Practice Restriction.'' GX 3. Pursuant to the Interim Consent Agreement for Practice Restriction, Respondent elected to relinquish all rights to a hearing and to appeal, and agreed not to dispute, but did not concede, its allegations. GX 3, at 6, 4, respectively. It contained the allegations that Respondent ''deviated from the standard of care'' for one patient by ''failing to substantiate and justify a reason for prescribing opioids to . . . her[,] to acknowledge and deal with aberrant behavior manifested by frequent Emergency Room . . . visits usually for overdoses and documentation [sic] cocaine use[,] . . . to utilize urine drug screens[,] . . . to access [the patient's] Controlled Substance Prescription Monitoring Program (''CSPMP'') profile to monitor [the patient's] prescription medication use[, and] . . . by performing trigger point injections without identifying physical trigger points on examination, usually with a concomitant IM injection of Toradol.'' GX 3, at 2. The Interim Consent Agreement for Practice Restriction contained the allegation that this patient ''experienced actual harm as Respondent caused or contributed to her abuse and apparent addiction of controlled substances.'' *Id.*

The Interim Consent Agreement for Practice Restriction also contained allegations that Respondent deviated from the standard of care for another patient ''by failing to substantiate and justify a reason for prescribing opioids to . . . [her], failing to monitor his opioid prescribing, failing to access the CSPMP, and failing to utilize urine drug screens.'' GX 3, at 3. Those allegations included that Respondent ''failed to identify aberrant behavior including frequent ER visits, and claims of lost or stolen medications and requests for early refills.'' *Id.* According to the allegations, Respondent's patient ''experienced actual harm in that Respondent either created an addictive state or contributed to a pre-existing addictive state.'' *Id.*

The Interim Consent Agreement for Practice Restriction contained allegations concerning a third patient of Respondent's. Those allegations included that ''Respondent deviated from the standard of care for . . . [the patient] by failing to identify a source of pain for . . . [him], and failing to demonstrate that the prescribing of opioids met the goals of reduction of pain and improvement of function.'' *Id.* Additional allegations concerning the third patient were that ''Respondent failed to monitor his opioid prescribing, failed to access the CSPMP and failed to utilize urine drug screens until April of 2016.'' *Id.* According to the allegations, Respondent's patient ''experienced actual harm in that Respondent ignored abnormal urine drug screens and aberrant behavior,'' and faced the ''potential for harm'' due to ''inappropriate medication prescribing, including side effects such as sedation, gastrointestinal dysfunction, cognitive impairment, respiratory depression, insomnia and addiction.'' GX 3, at 3–4.

The Interim Consent Agreement for Practice Restriction explicitly stated that Respondent agreed not to dispute its allegations ''[f]or the purposes of entering this Interim Consent Agreement and for these purposes only.'' GX 3, at 4. It also stated that Respondent did ''not concede these allegations and this Interim Consent Agreement is not intended for use in any subsequent proceeding, either civil or criminal, as evidence of any kind.'' *Id.*

The Interim Consent Agreement for Practice Restriction's Interim Order prohibited Respondent from engaging in the practice of medicine in the State of Arizona ''until he applies to the Executive Director and receives permission to do so.'' GX 3, at 5 (citing A.R.S. § 32–1401(22)). The Interim Order stated that Respondent may request release and/or modification of the Interim Consent Agreement for

Practice Restriction in writing accompanied by ''information demonstrating that he is safe to practice medicine, including having successfully completed a competency evaluation at a facility approved by the Board or its staff.'' GX 3, at 5. Among other things, the Interim Order also stated that it is not a ''final decision by the Board,'' is ''subject to further consideration,'' and ''[o]nce the investigation is complete, it will be promptly provided to the Board for its review and appropriate action.'' *Id.* The Interim Consent Agreement for Practice Restriction was ''effective on the date signed by the Board's Executive Director,'' December 21, 2016. GX 3, at 5, 8–9. Respondent entered into the Interim Consent Agreement for Practice Restriction voluntarily. GX 3, at 6. He understood that ''any violation of this Interim Consent Agreement constitutes unprofessional conduct under A.R.S. § 32–1401(27)(r).'' GX 3, at 8.

On May 9, 2017, the DEA Diversion Investigator assigned to the investigation of Respondent's medical practice (hereinafter, DI) signed a Declaration. GX 9. According to that Declaration, the DI ''confirmed'' with the Senior Investigator for the Board that ''the current prohibition on . . . [Respondent's] practice of medicine also includes a prohibition on his authorization to handle controlled substances.'' GX 9, at 2. Further, as of April 24, 2017, the Declaration stated that the Board's Senior Investigator informed the DI that Respondent ''remains prohibited from practicing medicine in Arizona, pending revocation proceedings currently before the Board.'' *Id.*

As found above, Respondent waived his right to a hearing and to submit a written statement while waiving his right to a hearing concerning the Show Cause Order. Accordingly, there is no evidence to refute the allegations of the Show Cause Order. I, therefore, find that Respondent currently is prohibited from engaging in the practice of medicine, and currently is without authority to dispense controlled substances, in Arizona, the State in which he is registered.

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); *Bourne Pharmacy, Inc.,* 72 FR 18,273, 18,274 (2007) (''Under the Controlled Substances Act . . . , it is irrelevant that Respondent's state registration is being held in escrow pending state proceedings. Under the Act, a practitioner must be currently authorized to handle controlled substances in 'the jurisdiction in which [it] practices' in order to maintain its DEA registration.''); *Anne Lazar Thorn, M.D.,* 62 FR 12,847, 12, 848 (1997) (The ''controlling question'' is ''whether the Respondent is currently authorized to handle controlled substances in the state.''); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616 (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. 801(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,* 53 FR 11,919, 11,920 (1988); *Thorn, supra,* 62 FR at 12,848; *Blanton, supra,* 43 FR at 27,616.

Under Arizona law, a ''doctor of medicine'' is a ''natural person holding a license, registration or permit to practice medicine pursuant to this chapter.'' A.R.S. § 32–1401(10) (2017). *See also* A.R.S. § 32–1401(21) (2017) (A ''physician'' is a ''doctor of medicine who is licensed pursuant to this chapter.'') The ''practice of medicine'' means ''the diagnosis, the treatment or the correction of or the attempt or the claim to be able to diagnose, treat or correct any and all human diseases . . . by any means, method, devices or instrumentalities . . . .'' A.R.S. § 32–1401(22) (2017). ''Medicine'' means ''allopathic medicine as practiced by the recipient of a degree of doctor of medicine.'' A.R.S. § 32–1401(19) (2017). ''Restrict'' means ''taking a disciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be medically incompetent or guilty of unprofessional conduct.'' A.R.S. § 32–1401(23) (2017). Further, a physician who ''wishes to dispense a controlled substance . . . shall be currently licensed to practice medicine in Arizona.'' Arizona Medical Board Licensure, R4–16–301 (2017). ''Dispense,'' under Arizona law, means ''the delivery by a doctor of medicine of a prescription drug or device to a patient . . . and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.'' A.R.S. § 32–1401(9) (2017).

In this case, the Arizona Medical Board and Respondent entered into an ''Interim Consent Agreement for Practice Restriction'' which prohibits Respondent from engaging in the practice of medicine in the State of Arizona ''until he applies to the Executive Director and receives permission to do so.'' GX 3, at 5 (citing A.R.S. § 32–1401(22)). Further, the unrefuted DI Declaration stated that ''the current prohibition on . . . [Respondent's] practice of medicine also includes a prohibition on his authorization to handle controlled substances.'' GX 9, at 2. Consequently, Respondent is not currently authorized to handle controlled substances in the State of Arizona, the State in which he is registered and, therefore, he is not entitled to maintain his DEA registration. *Thorn, supra; Blanton, supra.* Accordingly, I will order that his registration be revoked and that any pending application for the renewal or modification of his registration be denied. 21 U.S.C. 824(a)(3).

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration BT9321150 issued to

Harinder Takyar, M.D., be, and it hereby is, revoked. I further order that any pending application of Harinder Takyar, M.D., to renew or modify this registration, as well as any other pending application by him for registration in the State of Arizona, be, and it hereby is, denied. This order is effective November 27, 2017.

Dated: October 18, 2017.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2017–23338 Filed 10–25–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OLP Docket No. 165]

Federal Law Protections for Religious Liberty

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This notice provides the text of the Attorney General's Memorandum of October 6, 2017, for all executive departments and agencies entitled ''Federal Law Protections for Religious Liberty'' and the appendix to this Memorandum.

DATES: This notice is applicable on October 6, 2017.

FOR FURTHER INFORMATION CONTACT: Jennifer Dickey, Counsel, Office of Legal Policy, U.S. Department of Justice, 950 Pennsylvania Avenue NW., Washington, D.C. 20530, phone (202) 514–4601.

SUPPLEMENTARY INFORMATION: The President instructed the Attorney General to issue guidance interpreting religious liberty protections in federal law, as appropriate. Exec. Order 13798, § 4 (May 4, 2017). Pursuant to that instruction and consistent with the authority to provide advice and opinions on questions of existing law to the Executive Branch, the Attorney General issued the following memorandum to the heads of all executive departments and agencies on October 6, 2017.

Dated: October 20, 2017.

Beth Ann Williams,

Assistant Attorney General, Office of Legal Policy.

MEMORANDUM FOR ALL EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: THE ATTORNEY GENERAL

SUBJECT: *Federal Law Protections for Religious Liberty*

The President has instructed me to issue guidance interpreting religious liberty protections in federal law, as appropriate. Exec. Order No. 13798 § 4, 82 Fed. Reg. 21675 (May 4, 2017). Consistent with that instruction, I am issuing this memorandum and appendix to guide all administrative agencies and executive departments in the execution of federal law.

Principles of Religious Liberty

Religious liberty is a foundational principle of enduring importance in America, enshrined in our Constitution and other sources of federal law. As James Madison explained in his Memorial and Remonstrance Against Religious Assessments, the free exercise of religion ''is in its nature an unalienable right'' because the duty owed to one's Creator ''is precedent, both in order of time and in degree of obligation, to the claims of Civil Society.'' [1] Religious liberty is not merely a right to personal religious beliefs or even to worship in a sacred place. It also encompasses religious observance and practice. Except in the narrowest circumstances, no one should be forced to choose between living out his or her faith and complying with the law. Therefore, to the greatest extent practicable and permitted by law, religious observance and practice should be reasonably accommodated in all government activity, including employment, contracting, and programming. The following twenty principles should guide administrative agencies and executive departments in carrying out this task. These principles should be understood and interpreted in light of the legal analysis set forth in the appendix to this memorandum.

1. The freedom of religion is a fundamental right of paramount importance, expressly protected by federal law.

Religious liberty is enshrined in the text of our Constitution and in numerous federal statutes. It encompasses the right of all Americans to exercise their religion freely, without being coerced to join an established church or to satisfy a religious test as a qualification for public office. It also encompasses the right of all Americans to express their religious beliefs, subject to the same narrow limits that apply to all forms of speech. In the United States, the free exercise of religion is not a mere policy preference to be traded against other policy preferences. It is a fundamental right.

[1] James Madison, Memorial and Remonstrance Against Religious Assessments (June 20, 1785), *in* 5 The Founders' Constitution 82 (Philip B. Kurland & Ralph Lerner eds., 1987).

2. The free exercise of religion includes the right to *act* or *abstain from action* in accordance with one's religious beliefs.

The Free Exercise Clause protects not just the right to believe or the right to worship; it protects the right to perform or abstain from performing certain physical acts in accordance with one's beliefs. Federal statutes, including the Religious Freedom Restoration Act of 1993 (''RFRA''), support that protection, broadly defining the exercise of religion to encompass all aspects of observance and practice, whether or not central to, or required by, a particular religious faith.

3. The freedom of religion extends to persons *and* organizations.

The Free Exercise Clause protects not just persons, but persons collectively exercising their religion through churches or other religious denominations, religious organizations, schools, private associations, and even businesses.

4. Americans do not give up their freedom of religion by participating in the marketplace, partaking of the public square, or interacting with government.

Constitutional protections for religious liberty are not conditioned upon the willingness of a religious person or organization to remain separate from civil society. Although the application of the relevant protections may differ in different contexts, individuals and organizations do not give up their religious-liberty protections by providing or receiving social services, education, or healthcare; by seeking to earn or earning a living; by employing others to do the same; by receiving government grants or contracts; or by otherwise interacting with federal, state, or local governments.

5. Government may not restrict acts or abstentions because of the beliefs they display.

To avoid the very sort of religious persecution and intolerance that led to the founding of the United States, the Free Exercise Clause of the Constitution protects against government actions that target religious conduct. Except in rare circumstances, government may not treat the same conduct as lawful when undertaken for secular reasons but unlawful when undertaken for religious reasons. For example, government may not attempt to target religious persons or conduct by allowing the distribution of political leaflets in a park but forbidding the distribution of religious leaflets in the same park.