August 31, 2022.[4] Tennessee Department of Health License Verification, *https://apps.health.tn.gov/licensur*e (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not licensed to practice medicine in Tennessee, 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 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).[5]

According to Tennessee statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Tenn. Code Ann. section 39–17–402(7) (2023). Further, a ''practitioner'' means ''a physician . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.'' *Id.* at section 39–17–402(23)(A).

Here, the undisputed evidence in the record is that Respondent lacks authority to practice medicine in Tennessee. RD, at 7. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in Tennessee. Thus, because Respondent lacks authority to practice medicine in Tennessee and, therefore, is not authorized to handle controlled substances in Tennessee, Respondent is not eligible to maintain a DEA registration. RD, at 9. Accordingly, the Agency orders that Respondent'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. FG1060603 issued to Yogeshwar Gill, 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 Yogeshwar Gill, M.D., to renew or modify this registration, as well as any other pending application of Yogeshwar Gill, M.D., for additional registration in Tennessee. This Order is effective September 13, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on August 7, 2023, 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. 2023–17391 Filed 8–11–23; 8:45 am]

BILLING CODE 4410–09–P

[4] 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, Respondent 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.gov.*

[5] 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(g)(1) (this section, formerly section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Pub. L. 117–215, 136 Stat. 2257 (2022)). 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 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 27617. Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that Respondent is still challenging the underlying action here, *see* Respondent's Answer, at 2–3; *see also* Respondent's Supplemental Response, at 5–6. What is consequential is the Agency's finding that Respondent is not currently authorized to dispense controlled substances in Tennessee, the state in which he is registered with DEA.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On August 8, 2023, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Mexico in the lawsuit entitled *United States of America and New Mexico Environment Department* v. *Mewbourne Oil Company,* Civil Action No. 23–cv–00654.

In this action, the United States, on behalf of the U.S. Environmental Protection Agency, and the New Mexico Environment Department filed a complaint alleging that Mewbourne Oil Company (''Defendant'') violated the Clean Air Act, the New Mexico Air Quality Control Act, their implementing regulations, and the Texas State Implementation Plan at 104 of Defendant's oil and natural gas production facilities in New Mexico and Texas by failing to comply with requirements of the federal New Source Performance Standards set forth at 40 CFR part 60, subpart OOOO and OOOOa; failing to submit a Notice of Intent and to register for the NMED's Air Quality Bureau General Construction Permit for Oil and Gas Facilities (''GCP'') as required by New Mexico regulations; failing to apply for a Title V Operating Permit; and failing to operate in accordance with provisions of the GCP and the Texas Commission on Environmental Quality Permit by

Rule, as applicable. The complaint seeks an Order enjoining Defendant from further violating applicable requirements and requiring Defendant to remedy, mitigate, and offset the harm to public health and the environment caused by the violations and to pay a civil penalty.

Under the proposed settlement, Defendant agrees to pay a civil penalty of $5,500,000 and to spend at least $1,000,000 on a project to offset excess emissions resulting from the violations. In addition, the settlement requires the Defendant to ensure ongoing compliance with all applicable regulatory requirements at 422 of its oil and natural gas production facilities in New Mexico and Texas. Specifically, the settlement requires the Defendant to undertake a field survey to identify and remedy any compromised equipment at all 422 facilities and, at 206 of these facilities, Defendant is further required to undertake a design analysis to ensure adequate design and sizing of the vapor control system, install and operate extensive monitoring systems, implement a robust inspection and maintenance program, and hire an independent third party to verify compliance.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and New Mexico Environment Department* v. *Mewbourne Oil Company,* D.J. Ref. No. 90–5–2–1–12294. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $36.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–17312 Filed 8–11–23; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2023–18; Exemption Application No. D–12023]

Exemption From Certain Prohibited Transaction Restrictions Involving the Liberty Media 401(k) Savings Plan and the Liberty Media 401(k) Savings Plan Trust Located in Englewood, Colorado

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This document contains a notice of an exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act). The exemption permits: the Liberty Media 401(k) Savings Plan's (the Plan) acquisition of certain stock subscription rights (the Rights) to purchase shares of the Series C Liberty SiriusXM common stock (the Series C Liberty SiriusXM Stock), in connection with a rights offering (the Rights Offering) by Liberty Media Corporation (the Applicant or LMC); and the Plan's holding of the Rights during the subscription period of the Rights Offering.

DATES: This exemption will be in effect from May 18, 2020, the date that the Plan received the Rights, through June 5, 2020, the last date the Rights were sold on the NASDAQ.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Gonzalez of the Department at (202) 693–8553. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Applicant requested an exemption pursuant to ERISA section 408(a) and supplemented the request with certain additional information (collectively, this information is referred to as the Exemption Application).[1] On February 9, 2023, the Department published a notice of proposed exemption in the **Federal Register** at 88 FR 8469 (the Proposed Exemption).

Based on the record, the Department has determined to grant the proposed exemption. This exemption provides only the relief specified herein. It provides no relief from violations of any law other than the prohibited transaction provisions of ERISA, as expressly stated herein.

The Department makes the requisite findings under ERISA section 408(a) based on the Applicants' adherence to all the conditions of the exemption. Accordingly, affected parties should be aware that the conditions incorporated in this exemption are, taken individually and as a whole, necessary for the Department to grant the relief requested by the Applicants. Absent these conditions, the Department would not have granted this exemption.

Background

LMC sponsors the Plan, which is a defined contribution plan. The Plan is administrated by a committee (the Administrative Committee), and Fidelity Management Trust Company (Trustee or Fidelity) serves as the Plan's trustee. Plan participants can direct the investment of their Plan accounts into one of 27 investment alternatives, and these alternatives include LMC's issued securities. As of May 13, 2020, the Plan held a total of $7,186,824 in Series C Liberty SiriusXM Stock shares, which represented 6 percent of the Plan's total assets.

On May 15, 2020, LMC conducted the Rights Offering with holders of shares of Series C Liberty SiriusXM Stock. The Series A, B, or C Liberty SiriusXM Stock is LMC's stock that is intended to track and reflect the separate economic performance of the business, assets, and liabilities of Sirius XM Holdings. Under the Rights Offering, each holder of Series A Liberty SiriusXM Stock, Series B Liberty SiriusXM Stock, and Series C Liberty SiriusXM Stock received 0.0939 of a Right for each share of Series A Liberty SiriusXM Stock, Series B Liberty SiriusXM Stock, and Series C Liberty SiriusXM Stock held on May 13, 2020, which is the record date (rounded up to the nearest whole Right(s)). Each Right entitled the holder to purchase one share of Series C Liberty SiriusXM Stock at a subscription price of $25.47, which was equal to an approximate 20% discount to the volume weighted average trading price of Series C Liberty SiriusXM Stock for the three-day trading period ending on and including May 9, 2020.

[1] The procedures for requesting an exemption are set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011).