



**UNITED STATES DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

[Docket No. 24-52]

Maria Dewitt, N.P.; Decision and Order

On June 21, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Maria Dewitt, N.P. (Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent’s DEA Certificate of Registration No. MD7143960, at the registered address of 9038 High Branch, San Antonio, Texas. *Id.* at 1. The OSC alleged that Respondent’s DEA registration should be revoked because Respondent is “without authority to handle controlled substances in the State of Texas, the state in which [she is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

On June 25, 2024, Respondent requested a hearing and filed an Answer to the OSC.¹ On June 28, 2024, the Government filed a Notice of Filing of Evidence and Motion for Summary Disposition, which Respondent opposed.² On August 2, 2024, Administrative Law Judge Teresa A. Wallbaum (the ALJ) granted the Government’s Motion for Summary Disposition and recommended the revocation of Respondent’s registration, finding that because Respondent lacks state authority to handle controlled substances in Texas, the state in which she is registered with DEA, “[t]here is no genuine issue of material fact in this case.” Order Granting the Government’s Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (RD), at 8-9. Respondent did not file exceptions to the RD.³

¹ Respondent’s June 25, 2024, hearing request was an amended version of an initial document filed on June 24, 2024. Respondent also submitted an amended version of her Answer on the same day of its initial filing, June 25, 2024.

² See Respondent’s Response to Government’s Motion for Summary Disposition and Request for Hearing (Opposition).

³ On August 5, 2024, Respondent filed a letter, dated August 2, 2024, seeking to appeal the ALJ’s Recommended Decision; however, in this letter, Respondent did not present any additional arguments for the Agency to consider.

Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, findings of fact, conclusions of law, and recommended sanction as found in the RD and summarizes and expands upon portions thereof herein.

FINDINGS OF FACT

The Government has alleged that Respondent lacks a prescriptive authority delegation agreement with a physician, which is required for a Texas advanced practice registered nurse to handle controlled substances. RD, at 4, 7-8.⁴ According to Texas online records, of which the Agency takes official notice, Respondent does not currently have a prescriptive authority delegation agreement with a physician.⁵ Texas Medical Board, Healthcare Provider Search, <https://profile.tmb.state.tx.us/Search.aspx> (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not currently authorized to handle controlled substances in Texas, the state in which she is registered with the DEA.⁶

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 . . .

⁴ See also Government's Notice of Filing of Evidence and Motion for Summary Disposition, Exhibit (GX) 2.

⁵ 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 e-mail to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

⁶ In her Opposition, Respondent argues that there are material facts in dispute that require a hearing, specifically mentioning her state and federal authority to handle controlled substances. Respondent's Opposition, at 6. However, as the ALJ correctly notes in the RD, Respondent does not actually dispute the material fact that she lacks state and federal authority to handle controlled substances, with Respondent admitting that she has no current prescriptive authority delegation agreement with a physician. RD, at 9; Respondent's Opposition, at 2, 11. The Agency also agrees with the ALJ's finding that the other facts in dispute, such as Respondent's address, are immaterial and not dispositive to the adjudication of the current matter. RD, at 9 n.7 (citing *Michael Jones, M.D.*, 86 Fed. Reg. 20,728, 20,729 (2021)).

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. *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) (“The Attorney General can register a physician to dispense controlled substances ‘if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.’ . . . The very definition of a ‘practitioner’ eligible to prescribe includes physicians ‘licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices’ to dispense controlled substances. § 802(21).”). The Agency has applied these principles consistently. *See, e.g., James L. Hooper, M.D.*, 76 Fed. Reg. 71,371, 71,372 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. 27,616, 27,617 (1978).⁷

According to Texas statute, “dispense” means “the delivery of a controlled substance in the course of professional practice or research, by a practitioner or person acting under the lawful order of a practitioner, to an ultimate user or research subject. The term includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.” Tex. Health & Safety Code Ann. § 481.002(12) (2024). Further, a “practitioner” includes “an advanced practice registered nurse or physician assistant to whom a physician has delegated the authority to prescribe or order a drug or device” *Id.* § 481.002(39)(D). Texas statute provides that “[a] physician may delegate to an advanced practice registered nurse or

⁷ 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). 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, M.D.*, 76 Fed. Reg. at 71,371-72; *Sheran Arden Yeates, M.D.*, 71 Fed. Reg. 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 Fed. Reg. 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 Fed. Reg. at 27,617.

physician assistant, acting under adequate physician supervision, the act of prescribing or ordering a drug or device as authorized through a prescriptive authority agreement between the physician and the advanced practice registered nurse or physician assistant, as applicable.” Tex. Occ. Code Ann. § 157.0512(a) (2024).

Here, the undisputed evidence in the record is that Respondent lacks authority to handle controlled substances in Texas because she does not have a prescriptive authority delegation agreement with a physician. As discussed above, a Texas advanced practice registered nurse must have a prescriptive authority delegation agreement with a physician to dispense controlled substances in Texas. Thus, because Respondent lacks authority to handle controlled substances in Texas, Respondent is not eligible to maintain a DEA registration. RD, at 8. Accordingly, the Agency will order 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. MD7143960 issued to Maria Dewitt, N.P. 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 Maria Dewitt, N.P., to renew or modify this registration, as well as any other pending application of Maria Dewitt, N.P., for additional registration in Texas. 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 December 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.

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