



## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Laura M. Bellew, N.P.; Decision and Order

On December 7, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Laura M. Bellew, N.P. of Albuquerque, New Mexico (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 3. The OSC proposed the revocation of Registrant’s Certificate of Registration No. MB1955108, alleging that Registrant’s registration should be revoked because Registrant is “currently without authority to handle controlled substances in New Mexico, the state in which [she is] registered with DEA.” *Id.* at 1-2 (citing 21 U.S.C. 824(a)(3)).<sup>1</sup>

The OSC notified Registrant of her right to file a written request for hearing, and that if she failed to file such a request, she would be deemed to have waived her right to a hearing and be in default. *Id.* at 2 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 3.<sup>2</sup> “A default, unless excused, shall be deemed to constitute a waiver of the

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<sup>1</sup> According to Agency records, Registrant’s registration expired on July 31, 2024. The fact that a registrant allows her registration to expire during the pendency of an OSC does not impact the Agency’s jurisdiction or prerogative under the Controlled Substances Act (CSA) to adjudicate the OSC to finality. *Jeffrey D. Olsen, M.D.*, 84 FR 68474, 68476 through 68479 (2019).

<sup>2</sup> Based on the Government’s submissions in its RFAA dated March 1, 2024, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the Declaration for a DEA Diversion Investigator (DI) indicates that on December 11, 2023, the DI served the OSC via email to an email address associated with Registrant, and the DI’s email was successfully delivered. RFAAX 2, at 2, Attachment 2; *Mohammed S. Aljanaby, M.D.*, 82 FR 34552, 34553 (2017) (finding that service by email satisfies due process where the email is not returned as undeliverable and other methods have been unsuccessful). The DI made several other attempts to serve Registrant with the OSC, but they were unsuccessful. On December 11 and 12, 2023, the DI left voicemails at a business associated with Registrant, InnovAge, but did not receive any response. RFAAX 2, at 2. Further on December 12, 2023, the DI mailed two copies of the OSC to Registrant’s registered address. *Id.* at 2, Attachments 3-5. On the same date, the DI visited two additional addresses associated with Registrant, but when the DI arrived at each address, no person answered. *Id.* at 2-3. The DI left a business card at each address, but received no response. *Id.* Also on December 12, 2023, the DI visited the location of InnovAge, where the director of InnovAge informed the DI that Registrant had not been employed there for at least a year and a half. *Id.* at 3. Finally, on December 20, 2023, the DI mailed two copies of the OSC to a Pennsylvania address associated with Registrant. *Id.* at 3, Attachments 6-8. In sum, the Agency finds that Registrant was successfully served the OSC by email and the DI’s efforts to serve Registrant by other means were “‘reasonably calculated, under all the circumstances, to apprise [Registrant] of the pendency of the action.’” *Jones v. Flowers*, 547 U.S. 220, 226 (2006) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Therefore, due process notice requirements have been satisfied.

registrant's/applicant's right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Further, "[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] § 1316.67." *Id.* § 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(d) through (f), 1301.46. RFAA, at 1; *see also* 21 CFR 1316.67.

### **Findings of Fact**

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, on January 9, 2023, the New Mexico State Board of Nursing suspended Registrant's New Mexico registered nurse license and New Mexico certified nurse practitioner license for a period of two years. RFAAX 1, at 1. According to New Mexico online records, of which the Agency takes official notice, both Registrant's New Mexico registered nurse license and New Mexico certified nurse practitioner license remain suspended.<sup>3</sup> <https://nmbn.boardsofnursing.org/licenselookup> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice as a nurse practitioner in New Mexico, the state in which she is registered with DEA.

### **Discussion**

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State

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<sup>3</sup> 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, Registrant 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 the DEA Office of the Administrator, Drug Enforcement Administration at [dea.addo.attorneys@dea.gov](mailto:dea.addo.attorneys@dea.gov).

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, 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 FR 27616, 27617 (1978).<sup>4</sup>

According to New Mexico statute, “dispense” means “to deliver a controlled substance to an ultimate user or research subject pursuant to the lawful order of a practitioner, including the administering, prescribing, packaging, labeling or compounding necessary to prepare the controlled substance for that delivery.” N.M. Stat. Ann. section 30-31-2(H) (2024). Further, a “practitioner” means “a physician . . . certified nurse practitioner . . . or other person licensed or certified to prescribe and administer drugs that are subject to the Controlled Substances Act.” *Id.* at section 30-31-2(P).

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<sup>4</sup> 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*, 76 FR 71371, 71372; *Sheran Arden Yeates, D.O.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, D.O.*, 58 FR 51104, 51105 (1993); *Bobby Watts, D.O.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton*, 43 FR 27617.

Here, the undisputed evidence in the record is that Registrant lacks authority to practice as a nurse practitioner in New Mexico because both her New Mexico registered nurse license and New Mexico certified nurse practitioner license have been suspended. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in New Mexico. Thus, because Registrant lacks authority to practice as a nurse practitioner in New Mexico and, therefore, is not authorized to handle controlled substances in New Mexico, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant'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. MB1966108, issued to Laura M. Bellew, 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 Laura M. Bellew, N.P., to renew or modify this registration, as well as any other pending application of Laura M. Bellew, N.P., for additional registration in New Mexico. 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 November 26, 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.*

