



DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Rachel Jackson, P.A.; Decision and Order

On October 1, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Rachel Jackson, P.A., of Sabattus, Maine (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 4, at 1, 4. The OSC proposed the revocation of Registrant’s Certificate of Registration No. MG5136723, alleging that Registrant’s registration should be revoked because Registrant is “currently without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Maine, the state in which [she is] registered with DEA.” *Id.* at 1-2 (citing 21 U.S.C. 824(a)(3)).¹

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 3.² “A default, unless excused, shall be deemed to constitute a waiver of the

¹ According to Agency records, Registrant’s registration expired on December 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, 68476-79 (2019).

² Based on the Government’s submissions in its RFAA dated August 20, 2024, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the Declaration from a DEA Diversion Investigator (DI) indicates that on November 8, 2023, Registrant was successfully served a copy of the OSC via email to an email address associated with Registrant. RFAAX 1, at 2; *Mohammed S. Aljanaby, M.D.*, 82 FR 34552, 34552 (2017) (finding that service by email satisfies due process where the email is not returned as undeliverable and other methods have been unsuccessful). As noted in the DI’s Declaration, on October 5, 2023, the DI and other DEA officials attempted in-person service of the OSC to an address associated with Registrant, but the service was unsuccessful. RFAAX 1, at 1-2. On October 10, 2023, the DI provided her contact information to Registrant via email to Registrant’s aforementioned email address. *Id.* at 2. On October 12, 2023, the DI called all five phone numbers listed in the information database for Registrant, as well as Registrant’s spouse. *Id.* Regarding the phone numbers that were still in service, the DI was unable to reach Registrant and left a voicemail for Registrant with her contact information. *Id.* Finally, on November 9, 2023, the DI mailed copies of the OSC via certified and first-class mail to two different addresses associated with Registrant. *Id.* On November 20, 2023, the DI received confirmation of receipt of the certified mail, and upon search of the USPS mail tracking system, the DI confirmed that Registrant received and signed for the certified mail for both addresses. *Id.*; RFAAX 3. 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 C.F.R.] § 1316.67." *Id.* section 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant's default pursuant to 21 CFR 1301.43(c), (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 June 9, 2023, Registrant requested that the Maine Board of Licensure in Medicine permit her to voluntarily surrender her Maine physician assistant license. RFAAX 4, at 2. Effective July 11, 2023, the Maine Board of Licensure in Medicine granted Registrant's request. *Id.* According to Maine online records, of which the Agency takes official notice, Registrant's Maine physician assistant license is inactive and listed under a status of "Voluntary Surrender."³ Government of Maine Regulatory Licensing & Permitting Search, <https://www.pfr.maine.gov/ALMSOnline/ALMSQuery/Welcome.aspx> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice as a physician assistant in Maine, the state in which she is registered with DEA.

³ 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.

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 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 FR 71371, 71372 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁴

According to Maine statute, “Unless licensed by the [Board of Licensure in Medicine], an individual may not practice medicine or surgery or a branch of medicine or surgery . . . within the State by diagnosing, relieving in any degree or curing . . . a human disease, ailment, defect or complaint, whether physical or mental . . . by attendance or by advice, or by prescribing or

⁴ 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 FR 71371-72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton, M.D.*, 43 FR 27,617.

furnishing a drug, medicine, appliance, manipulation, method or a therapeutic agent whatsoever or in any other manner unless otherwise provided by statutes of this State.” Me. Rev. Stat. tit. 32, section 3270 (2024). Further, Maine statute states that, “[a] physician assistant may not render medical services until the physician assistant has applied for and obtained from either the Board of Licensure in Medicine or the Board of Osteopathic Licensure: . . . [a] license, which must be renewed biennially with the board that issued the initial license.” *Id.* section 3270-E(1)(A).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice as a physician assistant in Maine because she voluntarily surrendered her Maine physician assistant license to the Maine Board of Licensure in Medicine and her license is now inactive. As discussed above, an individual must be licensed by the Maine Board of Licensure in Medicine to handle controlled substances in Maine. Thus, because Registrant lacks authority to practice as a physician assistant in Maine and, therefore, is not authorized to handle controlled substances in Maine, 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. MG5136723 issued to Rachel Jackson, P.A. 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 Rachel Jackson, P.A., to renew or modify this registration, as well as any other pending application of Rachel Jackson, P.A., for additional registration in Maine. This Order is effective **[insert Date Thirty Days From the Date of Publication in the Federal Register]**.

SIGNING AUTHORITY

This document of the Drug Enforcement Administration was signed on March 13, 2025, by Acting Administrator Derek Maltz. 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. 2025-04752 Filed: 3/19/2025 8:45 am; Publication Date: 3/20/2025]