



## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### [Docket No. 25-9]

#### Joely Keen, A.P.R.N.; Decision and Order

On September 24, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Joely Keen, A.P.R.N., of The Woodlands, Texas (Respondent). OSC, at 1, 4. The OSC proposed the revocation of Respondent's DEA Certificate of Registration No. MK4402210, alleging that Respondent's DEA registration should be revoked because Respondent is "without authority to prescribe, administer, dispense, or otherwise 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 October 22, 2024, Respondent requested a hearing,<sup>1</sup> and on October 23, 2024, Respondent filed an Answer to the allegations in the OSC. *See Order For Respondent To File Answer.* On November 1, 2024, the Government filed a Motion for Summary Disposition, to which Respondent did not respond. On November 19, 2024, Administrative Law Judge Paul E. Soeffing (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, "there is no other fact of consequence for th[e] tribunal to decide." *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 5-6. Respondent did not file exceptions to the RD.

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<sup>1</sup> Respondent initially responded to the OSC via email on October 18, 2024, but her email did not include a hearing request. *See Respondent's Request for Hearing (October 18, 2024)*. On October 21, 2024, the Administrative Law Judge (ALJ) directed Respondent to file a request for a hearing if she desired one, along with an answer to the allegations in the OSC. *Order for Respondent to File Request for Hearing and Answer and for Government to File Evidence of Lack of State Authority*.

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**

According to Texas online records, of which the Agency takes official notice, Respondent's Texas APRN license and Texas registered nurse license are revoked.<sup>2</sup> Texas Board of Nursing License Verification Portal, <https://txbn.boardsfnursing.org/licenselookup> (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not currently licensed to practice as an APRN or registered nurse in Texas, the state in which she is registered with DEA.<sup>3</sup>

Additionally, as of March 27, 2024, Respondent has not had an active prescriptive authority agreement with a supervisory physician, which is required for an advanced practice registered nurse (APRN) in Texas to handle controlled substances. RD, at 4; 22 Tex. Admin. Code sections 193.7(a), 222.4(a)(l)(A), 222.5(a).<sup>4</sup>

## **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, DEA has also long held that

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<sup>2</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).

<sup>3</sup> 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." The material fact here is that Registrant, as of the date of this decision, is not licensed to practice medicine in Texas. Respondent may dispute this fact 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](mailto:dea.addo.attorneys@dea.gov).

<sup>4</sup> See also Government's Notice of Filing of Evidence and Motion for Summary Disposition, Exhibit 1.

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).<sup>5</sup>

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. section 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.* section 481.002(39)(D). Texas statute provides that “[a] physician may delegate to an advanced practice registered nurse or physician assistant, acting under adequate physician supervision, the

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<sup>5</sup> This rule derives from the text of two provisions of the Controlled Substances Act (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, 39131 (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 27617.

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. section 157.0512(a) (2024).

Here, the undisputed evidence in the record is that Respondent lacks authority to handle controlled substances in Texas because her Texas APRN license and Texas registered nurse license have both been revoked. Respondent also lacks authority to handle controlled substances in Texas because she has not had an active prescriptive authority agreement with a supervisory physician since March 27, 2024. As discussed above, an individual must be a licensed practitioner to dispense a controlled substance in Texas, and for an advanced practice registered nurse to meet the definition of a practitioner, he or she must be delegated the authority to handle controlled substances via a prescriptive authority agreement with a supervisory physician.

Thus, because Respondent lacks authority to practice as an advanced practice registered nurse in Texas, Respondent is not authorized to handle controlled substances in Texas and is therefore not eligible to maintain a DEA registration. RD, at 5-6.

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. MK4402210 issued to Joely Keen, A.P.R.N. 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 Joely Keen, A.P.R.N., to renew or modify this registration, as well as any other pending application of Joely Keen, A.P.R.N., 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 March 18, 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.*

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