



## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Bohdan Olesnicky, M.D.; Decision and Order

On November 13, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Bohdan Olesnicky, M.D., of Indian Wells, California (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 4. The OSC proposed the revocation of Registrant’s Certificate of Registration No. FO0628391, alleging that Registrant’s registration should be revoked because Registrant is “currently without authority to handle controlled substances in the State of California, the state in which [he is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* at 2-3 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 4.<sup>1</sup> “A default, unless excused, shall be deemed to constitute a waiver of the 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

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<sup>1</sup> Based on the Government’s submissions in its RFAA dated February 26, 2025, the Agency finds that service of the OSC on Registrant was adequate. The included declaration from a DEA Diversion Investigator (DI) indicates that on November 15, 2024, the DI attempted to serve Registrant the OSC at his “mail to” address and left a copy of the OSC at that location. RFAAX 2, at 2. On November 20, 2024, the DI emailed a copy of the OSC to Registrant’s registered email address and the email was not returned. *Id.* On the same date, the DI mailed copies of the OSC via certified mail to Registrant’s “mail to” address and address of record with the Medical Board of California. *Id.* The copy of the OSC sent to Registrant’s “mail-to” address was returned as “unclaimed.” *Id.* Finally, on November 27, 2024, the DI mailed a copy of the OSC to Registrant’s “mail to” address via First-Class mail. *Id.* at 3. Here, the Agency finds that the DI’s efforts to serve Registrant 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.

CFR] 1316.67.” *Id.* at 1301.43(f)(1). Here, the Government has requested final agency action based on Registrant’s default pursuant to 21 CFR 1301.43(a), (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 deemed admitted. According to the OSC, on December 5, 2023, Registrant surrendered his California physician’s and surgeon’s license. RFAAX 1, at 1. According to California online records, of which the Agency takes official notice,<sup>2</sup> Registrant’s California medical license has a primary status of “License Surrendered.” California DCA License Search, <https://search.dca.ca.gov> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice medicine in California, the state in which he is registered with DEA.<sup>3</sup>

### **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

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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 California. 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).

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).<sup>4</sup>

According to California 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, furnishing, packaging, labeling, or compounding necessary to prepare the substance for that delivery.” Cal. Health & Safety Code § 11010 (West 2024). Further, a “practitioner” means a person “licensed, registered, or otherwise permitted, to distribute, dispense, conduct research with respect to, or administer, a controlled substance in the course of professional practice or research in [the] state.” *Id.* at § 11026(c).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in California. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in California. Thus, because Registrant currently lacks authority to practice medicine in California and, therefore, is not currently authorized to handle

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<sup>4</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 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, M.D.*, 43 Fed. Reg. at 27,617.

controlled substances in California, 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. FO0628391 issued to Bohdan Olesnicky, 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 Bohdan Olesnicky, M.D., to renew or modify this registration, as well as any other pending application of Bohdan Olesnicky, M.D., for additional registration in California. 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 June 20, 2025, by Acting Administrator Robert J. Murphy. 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.

**Gregory Aul,**  
*Federal Register Liaison Officer,*  
*Drug Enforcement Administration.*

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