

Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Rebecca Sotelo (Respondent) who was notified of an opportunity to show cause as to why DEA should not deny her application for registration as a mid-level practitioner, pursuant to 21 U.S.C. 824(a)(3) and 823(f).

The Order to Show Cause alleged that Respondent had not been granted Prescribing and Dispensing Authority by the Arizona State Board of Nursing and was not authorized to handle controlled substances in Arizona, the State in which she practices. The Order to Show Cause also notified Respondent that should no request for a hearing be filed within 30 days, her hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Respondent's residence at 4479 N. Camino Del Ray, Tucson, Arizona 85718. According to the return receipt, the Order to Show Cause was delivered to Respondent on October 18, 2004. DEA has not received a request for a hearing or any other reply from Respondent or anyone purporting to represent her in the matter.

Therefore, the Deputy Administrator of DEA, finding that (1) thirty days having passed since the delivery of the Order to Show Cause to the Respondent and (2) no request for hearing having been received, concludes that Respondent is deemed to have waived her hearing right. See David W. Linder, 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that on March 3, 2004, Respondent, a nurse practitioner, applied for registration with DEA as a mid-level practitioner in Schedules II–V (Control No. E06325608N). She had previously been registered with DEA in that same status under Certificate of Registration MS0233222 but allowed the registration to expire on March 29, 2003, and it was retired from the DEA registration system.

Respondent had been licensed as a Registered Nurse with the Arizona State Board of Nursing (Board) and possessed a Certificate for Advance Practice, which is required by the Board for a nurse to act as a Nurse Practitioner. Under Arizona law and regulations, Nurse Practitioners may prescribe and dispense controlled substances if they are registered with DEA and the Board had granted them Prescribing and Dispensing Authority.

Respondent's initial Prescribing and Dispensing Authority expired on December 31, 1998, and her state nursing license, together with her Advance Practice Certificate, expired on June 30, 2003. In February 2004, she renewed her nursing license and Advanced Practice Certificate. However, she did not attempt to renew her Prescribing and Dispensing Authority.

In June 2004, after Respondent submitted her current application for DEA registration, the Board notified DEA investigators that because of public complaints lodged against her, Respondent's Prescribing and Dispensing Authority would not be renewed without an investigation and resolution of the allegations. On July 15, 2004, the State board advised DEA the Respondent "has not possessed the authority to prescribe and/or dispense medications as a nurse practitioner in the state of Arizona from January 1, 1999, to present."

There is no evidence before the Deputy Administrator that Respondent's Prescribing and Dispensing Authority has been since been renewed. Therefore, the Deputy Administrator finds that Respondent is not currently authorized to handle controlled substances in the State of Arizona.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which she conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Rory Patrick Doyle, M.D., 69 FR 11,655 (2004); Dominick A. Ricci, M.D., 58 FR 51,104 (1993); Bobby Watts, M.D., 53 FR 11,919 (1988).

Here, it is clear Respondent is not currently authorized to handle controlled substances in Arizona, where she currently practices. Therefore, she is not entitled to a DEA registration in that State.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for a DEA Certificate of Registration, submitted by Rebecca Sotelo, be, and it hereby is, denied. This order is effective June 17, 2005.

Dated: May 9, 2005.

Michele M. Leonhart,
Deputy Administrator.

[FR Doc. 05–9835 Filed 5–17–05; 8:45 am]

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DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education in Guyana; Correction

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Correction.

SUMMARY: In notice document 05–9284 beginning on page 24632 in the issue of Tuesday, May 10, 2005, make the following correction:

On page 24632 in the third column, the population statistics previously listed in the second sentence under the heading "Barriers to Education for Working Children in Guyana" are incorrect. This sentence should be changed to read "UNICEF has estimated that 27 percent of children ages 5 to 14, or approximately 44,500 children, were working in Guyana in 2000."

Dated: May 11, 2004.

Valerie Veatch,
Grant Officer.

[FR Doc. 05–9870 Filed 5–17–05; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL2–2001]

TUV America, Inc., Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of TUV America, Inc., (TUVAM) for expansion of its recognition to use additional test standards, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application.

DATES: You must submit information or comments, or any request for extension of the time to comment, by the following dates:

- Hard copy: Your information or comments must be submitted (postmarked or sent) by June 2, 2005.
- Electronic transmission or facsimile: Your comments must be sent by June 2, 2005.

ADDRESSES: You may submit information or comments to this notice—identified by docket number NRTL2–2001—by any of the following methods: