to Michael Gore, 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 Michael Gore, P.A., to renew or modify this registration, as well as any other pending application of Michael Gore, P.A., for additional registration in New York. This Order is effective July 29, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on June 21, 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.

[FR Doc. 2024–14195 Filed 6–27–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Lisa Jones, N.P.; Decision and Order

On July 18, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Lisa Jones, N.P. (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. MJ7465289 in Wilkesboro, NC 28659. *Id.* at 1. The OSC alleged 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 North Carolina, the state in which [she is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of her right to file with DEA 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.* (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.[1] ''A default, unless excused, shall be deemed to constitute a waiver of the [registrant'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(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, effective March 13, 2023, the North Carolina Board of Nursing inactivated Respondent's nurse practitioner license. RFAAX 2, at 1. According to North Carolina online records, of which the Agency takes official notice, Registrant's nurse practitioner license is under an ''Inactive'' status.[2] North Carolina Board of Nursing License Verification Search, *https://portal.ncbon.com/licenseverification/search.aspx* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed as a nurse practitioner in North Carolina, 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 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. *See, e.g., James L. Hooper, D.O.,* 76 FR 71371, 71372 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, D.O.,* 43 FR 27616, 27617 (1978).[3]

According to North Carolina 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, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' N.C. Gen. Stat. Ann. section 90–87(8) (West 2023). Further, a ''practitioner'' means a ''physician . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance so long as such activity is within the normal course of professional practice or research in this State.'' *Id.* at section 90–87(22)(a).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice as a nurse practitioner in North Carolina. As discussed above, an individual must be a licensed practitioner to dispense a controlled

[1] Based on the Government's submissions in its RFAA dated September 21, 2023, the Agency finds that service of the OSC on Registrant was adequate. Specifically, the Government's included Notice of Service of Order to Show Cause asserts that Registrant was personally served with the OSC on July 27, 2023. RFAAX 1, at 1. The Government notes that ''[Registrant] did not agree to sign a Form DEA–12 acknowledging receipt of the [OSC].'' *Id.*

[2] 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 email to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[3] 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,* 76 FR 71371–72; *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.

substance in North Carolina. Thus, because Registrant lacks authority to practice as a nurse practitioner in North Carolina and, therefore, is not authorized to handle controlled substances in North Carolina, 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. MJ7465289 issued to Lisa Jones, 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 Lisa Jones N.P., to renew or modify this registration, as well as any other pending application of Lisa Jones N.P., for additional registration in North Carolina. This Order is effective July 29, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on June 21, 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.

[FR Doc. 2024–14200 Filed 6–27–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–29]

Jeffrey Pollock, P.A.; Decision and Order

On February 6, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Jeffrey Pollock, P.A., (Respondent) of Midvale, Utah. OSC/ISO, at 1. The OSC/ISO informed Respondent of the immediate suspension of his DEA Certificate of Registration, Control No. MP2900935, pursuant to 21 U.S.C. 824(d), alleging that Respondent's continued registration constitutes '''an imminent danger to the public health or safety.''' *Id.* (quoting 21 U.S.C. 824(d)). The OSC/ISO also proposed the revocation of Respondent's registration, alleging that Respondent's continued registration is inconsistent with the public interest. *Id.* (citing 21 U.S.C. 823(g)(1), 824(a)(4)).

A hearing was held before DEA Administrative Law Judge Paul E. Soeffing (the ALJ), who, on July 28, 2023, issued his Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision (Recommended Decision or RD), which recommended revocation of Respondent's registration. RD, at 54. Following the ALJ's Recommended Decision, Respondent filed Exceptions. Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, credibility findings,[1] findings of fact, conclusions of law, sanctions analysis, and recommended sanction as found in the RD.

I. Findings of Fact

1. Utah Standard of Care

Dr. Phillip Engen, M.D., testified for the Government as an expert in the area of pain management and the standard of care in the prescribing of controlled substances, specifically oxycodone. RD, at 9; Tr. 86–87. Dr. Engen is an anesthesiologist licensed to practice medicine in Colorado since 1993 and is Board certified in anesthesia, pain medicine, and hospice and palliative medicine.[2] RD, at 8; Tr. 75; Government Exhibit (GX) 14, at 2–3.[3] Dr. Engen testified that he has direct experience prescribing opioids for pain, including to patients with addiction issues, and is familiar with the risks associated with prescribing opioids. RD, at 8; Tr. 77, 79, 95.[4]

Regarding the Utah standard of care for a patient inherited from another provider, Dr. Engen testified that the inheriting provider must first evaluate the patient and determine if the patient is within the scope of his or her practice, including by obtaining informed consent and conducting a physical exam. RD, at 21; Tr. 139–40. If the patient is not within the scope of the provider's practice, then the provider must refer the patient out to a qualified specialist. RD, at 21; Tr.139–140. A physician treating a patient for pain is then required to complete a comprehensive evaluation of the patient. RD, at 10; Tr. 89–90.[5] Further, Dr. Engen testified that the physician must conduct a physical examination of the patient ''directed specifically to the nature of the pain history.'' RD, at 10; Tr. 90. Prior to prescribing opioids, the physician must query the controlled substance database (CSD) as well as attempt to retrieve records from the previous prescriber if the patient was inherited. RD, at 10; Tr. 90. The physician must also enter into an informed consent and opioid agreement

[1] The Agency adopts the ALJ's summary of each of the witnesses' testimonies as well as the ALJ's assessment of each of the witnesses' credibility. *See* RD, at 2–31. The Agency agrees with the ALJ that the testimony from the DEA Diversion Investigator (DI), which was primarily focused on the introduction of the Government's documentary evidence, the subpoenas the DI issued to obtain documents, and the DI's involvement with the case, was generally consistent without indication of any animosity towards Respondent and thus was fully credible and warranted substantial weight. RD, at 8. The Agency also agrees with the ALJ that the testimony from the Government's expert witness, Dr. Phillip Engen, M.D., which was focused on the Utah standard of care and Respondent's prescribing to Patient J.M., presented an objective analysis that was internally consistent and logically persuasive and thus was credible, reliable, and warranted significant weight. *Id.* at 21. Finally, the Agency agrees with the ALJ that the testimony from Respondent, which was focused on his background and his treatment of Patient J.M., was genuine and generally consistent. *Id.* at 31. However, as noted by the ALJ, there was minimal evidence offered to corroborate Respondent's testimony and neither the supervising physician nor the pharmacist, both of whom Respondent claims were partners with him in coordinating Patient J.M.'s care, were called as witnesses. *Id.* Further, Respondent has a significant personal interest in the outcome of the proceedings that was also considered when weighing the testimony in relation to other evidence presented during the hearing. *Id.* Overall, however, the ALJ found, and the Agency agrees, that Respondent's testimony was generally credible. *Id.*

[2] For Dr. Engen's full qualifications, *see* GX 14; RD, at 8–9.

[3] Dr. Engen testified that he has not seen patients in a clinical setting since the onset of the coronavirus pandemic in March 2020 and that he currently practices predominately forensic medicine, which he described as ''[n]ot necessarily'' distinct from clinical work; Dr. Engen explained that forensic work ''entails looking at patient data. Patient data with patients that are alive—their records when they [are] alive—patient[ ] data when patients are expired, and clinically evaluating the signs and symptoms of opioid overdose-related deaths, or adverse effects.'' RD, at 8, 9; Tr. 71, 147–48.

[4] Dr. Engen asserted that although he currently practices in Colorado, he familiarized himself with Utah state law in preparation for the current matter, including by visiting the Utah Division of Professional Licensing (DOPL) website where he found links and information relating to the Utah Medical Practice Act, Utah's opioid prescribing guidelines, and other Utah state law relating to prescribing opioids. RD, at 9; Tr.78–83. Dr. Engen also testified that he is familiar with the CDC opioid guidelines, which the Utah opioid prescribing guidelines reference. RD, at 9 n.13; Tr. 83.

[5] Such comprehensive evaluation includes risk assessment, opioid risk assessment, review of history of opioid use, and ''documentation of the character of the pain, onset, location, duration, exacerbating factors, relieving factors[,] and all of the items that identify a specific pain complaint.'' RD, at 10 (quoting Tr. 90); Tr. 89–90.