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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Scott Hansen, A.R.N.P.; Default Decision and Order

I. INTRODUCTION

On July 18, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Scott Hansen, A.P.R.N., of Seattle, WA (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1. The OSC/ISO informed Registrant of the immediate suspension of his DEA Certificate of Registration, No. MH7100124, pursuant to 21 U.S.C. 824(d), alleging that Registrant'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 Registrant's registration, alleging that Registrant's continued registration is inconsistent with the public interest and Registrant is without state authority to handle controlled substances. *Id*. at 1, 3 (citing 21 U.S.C. 823(g)(1), 824(a)(3), (4)).

More specifically, the OSC/ISO alleged that Registrant issued at least five controlled substance prescriptions after the Washington State Board of Nursing indefinitely suspended his Washington advanced registered nurse practitioner (ARNP) license. *Id*. at 2. The OSC/ISO also alleged that, due to the suspension of Registrant's Washington ARNP license, Registrant does not have authority to handle controlled substances in Washington, the state in which he is registered with DEA. *Id*. at 3. The OSC/ISO alleged that Registrant's prescribing was in violation of the Controlled Substances Act's (CSA's) implementing regulations and Washington state law. *Id*. at 2.[1]

[1] The Agency need not adjudicate the criminal violations alleged in the instant OSC/ISO. *Ruan v. United States*, 597 U.S. 450 (2022) (decided in the context of criminal proceedings).

The OSC/ISO notified Registrant of his right to file with DEA a written request for a hearing and an answer, 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. RFAAX 2, at 4-5 (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 2.[2] "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/ISO]." 21 CFR 1301.43(e); *see also* RFAAX 2, at 4-5 (providing notice to Registrant).

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.

II. LACK OF STATE AUTHORITY

A. Findings of Fact

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC/ISO are deemed admitted. Accordingly, Registrant admits that on March 5, 2024, the Washington State Board of Nursing indefinitely suspended Registrant's Washington ARNP

[2] Based on the Government's submissions in its RFAA dated January 14, 2025, the Agency finds that service of the OSC/ISO on Registrant was adequate. According to the included Declaration from a DEA Diversion Investigator (DI), on July 22, 2024, the DI went in person to both Registrant's registered and mailing addresses, but Registrant was not present at either address and appeared to no longer live at the mailing address. RFAAX 1, at 1. On the same date, the DI contacted the county assessor's office and confirmed that Registrant had sold his residence. *Id*. at 2. The DI then contacted the realtor of the sale, who confirmed the sale and advised the DI that Registrant may have moved to Thailand, but noted that he/she had not heard from Registrant since the sale. *Id*. No forwarding address was provided. *Id*. On the same date, the DI tried contacting Registrant via the telephone numbers associated with his registration, but Registrant's office number was disconnected and he did not answer his cell phone number. *Id*. The DI left a voicemail and sent Registrant a text message on his cell phone. *Id*. On the same date, the DI also emailed the OSC/ISO to Registrant's registered email address. Here, the Agency finds that Registrant was successfully served the OSC/ISO by email and that 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)); *see also Mohammed S. Aljanaby, M.D.*, 82 Fed. Reg. 34,552, 34,552 (2017) (finding that service by email satisfies due process where the email is not returned as undeliverable and other methods have been unsuccessful).

license. RFAAX 2, at 3. According to Washington online records, of which the Agency takes official notice,[3] Registrant's Washington ARNP license remains suspended. Washington State Department of Health Provider Credential Search, https://fortress.wa.gov/doh/providercredential search (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice as an ARNP in Washington, the state in which he is registered with DEA.[4]

B. 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.*,

[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).

[4] 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 as an ARNP in Washington. 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 DEA Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

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).[5]

According to Washington statute, "[a] practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession." Wash. Rev. Code § 69.50.308(j) (2024). Further, a "prescription" means "an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose." *Id*. § 69.50.101(oo). Finally, a "practitioner" as defined by Washington statute includes "[an] advanced registered nurse practitioner . . . under chapter 18.79 RCW." *Id*. § 69.50.101(nn)(1).[6]

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice as an ARNP in Washington, *supra* II.A. As discussed above, an individual must be a licensed practitioner to dispense or prescribe a controlled substance in Washington. Thus, because Registrant currently lacks authority to practice as an ARNP in Washington and, therefore, is not currently authorized to handle controlled substances in Washington, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA registration be revoked.

III. PUBLIC INTEREST

A. Applicable Law

[5] 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 Fed. Reg. at 71,371-72; *Sheran Arden Yeats, 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.

[6] Chapter 18.79 regulates nursing care.

As the Supreme Court stated in *Gonzales v. Raich*, "the main objectives of the CSA were to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances. . . . To effectuate these goals, Congress devised a closed regulatory system making it unlawful to . . . dispense[ ] or possess any controlled substance except in a manner authorized by the CSA." 545 U.S. 1, at 12-13 (2005). In maintaining this closed regulatory system, "[t]he CSA and its implementing regulations set forth strict requirements regarding registration, . . . drug security, and recordkeeping." *Id.* at 14.

Here, the OSC/ISO's allegations concern the CSA's "strict requirements regarding registration" and, therefore, go to the heart of the CSA's "closed regulatory system" specifically designed "to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances." *Id*.

Improper Prescribing (21 CFR 1306.04(a); Wash. Admin. Code § 246-840-410(1)(a); Wash. Rev. Code §§ 18.79.030(2), 18.130.190(7)).

The OSC/ISO alleges that Registrant issued at least five controlled substance prescriptions after the Washington State Board of Nursing indefinitely suspended his Washington ARNP license. RFAAX 2, at 2. According to CSA regulations, a prescription for a controlled substance is proper only if "issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 CFR 1306.04(a).

Moreover, under Washington law, it is "unlawful for a person to practice or to offer to practice as an [ARNP] or as a nurse practitioner in th[e] state unless that person has been licensed." Wash. Rev. Code § 18.79.030(2). Washington law further requires that an ARNP hold an active Washington ARNP license to have prescriptive authority. Wash. Admin. Code § 246-840-410(1)(a).[7]

B. Findings of Fact

[7] Washington law states that "unlicensed practice of a profession . . . for which a license is required . . . constitutes a gross misdemeanor for a single violation," and each subsequent violation is a class C felony. Wash. Rev. Code § 18.130.190(7)

Registrant is deemed to have admitted that following the suspension of his Washington ARNP license on March 5, 2024, he issued at least five prescriptions for controlled substances including amphetamine/dextroamphetamine (a Schedule II stimulant), lisdexamfetamine (a Schedule II stimulant), oxycodone/acetaminophen (a Schedule II opioid), and buprenorphine (a Schedule II opioid). RFAAX 2, at 3. Registrant admits that these prescriptions were issued from March 19, 2024, through at least April 19, 2024, while he lacked a Washington ARNP license. *Id*. Accordingly, Registrant admits and the Agency finds substantial record evidence that these prescriptions were issued outside the usual course of professional practice and not for a legitimate medical purpose. *Id*.

C. Discussion

The Controlled Substances Act's Public Interest Factors

Pursuant to the CSA, "[a] registration . . . to . . . distribute[ ] or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under . . . [21 U.S.C. 823] inconsistent with the public interest as determined by such section." 21 U.S.C. 824(a)(4). In the case of a "practitioner," Congress directed the Attorney General to consider five factors in making the public interest determination. 21 U.S.C. 823(g)(1)(A-E).[8]

The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. 243, 292-93 (2006) (Scalia, J., dissenting) ("It is well established that these factors are to be considered in the disjunctive," citing *In re Arora*, 60 Fed. Reg. 4,447, 4,448 (1995)); *Robert A. Leslie, M.D.*, 68 Fed. Reg. 15,227, 15,230 (2003). Each factor is weighed on a case-by-case basis. *Morall v. Drug Enf't Admin.*, 412 F.3d 165, 173-74 (D.C. Cir. 2005). Any one factor, or

[8] The five factors of 21 U.S.C. 823(g)(1)(A-E) are:
(A) The recommendation of the appropriate State licensing board or professional disciplinary authority.
(B) The [registrant's] experience in dispensing, or conducting research with respect to controlled substances.
(C) The [registrant's] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.
(D) Compliance with applicable State, Federal, or local laws relating to controlled substances.
(E) Such other conduct which may threaten the public health and safety.

combination of factors, may be decisive. *Penick Corp. v. Drug Enf't Admin.*, 491 F.3d 483, 490 (D.C. Cir. 2007); *Morall*, 412 F.3d. at 185 n.2; *David H. Gillis, M.D.*, 58 Fed. Reg. 37,507, 37,508 (1993).

According to Agency decisions, the Agency "may rely on any one or a combination of factors and may give each factor the weight [it] deems appropriate in determining whether" to revoke a registration. *Id.*; *see also Jones Total Health Care Pharmacy, LLC v. Drug Enf't Admin.*, 881 F.3d 823, 830 (11th Cir. 2018) (citing *Akhtar-Zaidi v. Drug Enf't Admin.*, 841 F.3d 707, 711 (6th Cir. 2016)); *MacKay v. Drug Enf't Admin.*, 664 F.3d 808, 816 (10th Cir. 2011); *Volkman v. U. S. Drug Enf't Admin.*, 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie v. Drug Enf't Admin.*, 419 F.3d 477, 482 (6th Cir. 2005).

Moreover, while the Agency is required to consider each of the factors, it "need not make explicit findings as to each one." *MacKay*, 664 F.3d at 816 (quoting *Volkman*, 567 F.3d at 222); *see also Hoxie*, 419 F.3d at 482. "In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct." *Jayam Krishna-Iyer, M.D.*, 74 Fed. Reg. 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, findings under a single factor can support the revocation of a registration. *MacKay*, 664 F.3d at 821.

In this matter, while all of the 21 U.S.C. 823(g)(1) factors have been considered, the Agency finds that the Government's evidence in support of its *prima facie* public interest revocation case regarding Registrant's violations of the CSA's implementing regulations is confined to Factors B and D. RFAAX 2, at 3. Moreover, the Government has the burden of proof in this proceeding. 5 U.S.C.A. 556(d); 21 CFR 1301.44.

Factors B and/or D - Registrant's Registration is Inconsistent with the Public Interest

Evidence is considered under Public Interest Factors B and D when it reflects compliance or non-compliance with federal and local laws related to controlled substances and experience

dispensing controlled substances. 21 U.S.C. 823(g)(1)(B) and (D); *see also Kareem Hubbard, M.D.*, 87 Fed. Reg. 21,156, 21,162 (2022). Here, as the Agency finds above, Registrant is deemed to admit and the Agency finds that Registrant issued at least five controlled substance prescriptions after the Washington State Board of Nursing suspended his Washington ARNP license. *Supra* Section III. The Agency further finds that these prescriptions were issued outside the usual course of professional practice and not for a legitimate medical purpose. *Supra* Section III; *see also* RFAAX 2, at 3.

As such, the Agency finds substantial record evidence that the Registrant violated 21 CFR 1306.04(a), Wash. Admin. Code § 246-840-410(1)(a), and Wash. Rev. Code §§ 18.79.030(2), 18.130.190(7). After considering Factors B and D, the Agency further finds that Registrant's registration is outside the public interest. 21 U.S.C. 823(g)(1). Accordingly, the Agency finds that the Government established a *prima facie* case, that Registrant did not rebut that *prima facie* case, and that there is substantial record evidence supporting the revocation of Registrant's registration. 21 U.S.C. 823(g)(1).

D. SANCTION

Here, the Government has met its *prima facie* burden of showing that Registrant's continued registration is inconsistent with the public interest due to his numerous violations pertaining to his controlled substance prescribing. Accordingly, the burden shifts to Registrant to show why he can be entrusted with a registration. *Morall*, 412 F.3d. at 174; *Jones Total Health Care Pharmacy, LLC v. Drug Enf't Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Garrett Howard Smith, M.D.*, 83 Fed. Reg. 18,882, 18,904 (2018); *supra* section III.

The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.*, 84 Fed. Reg. 46,968, 46,972 (2019); *see also Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept

responsibility for those acts and demonstrate that he will not engage in future misconduct. *Jones Total Health Care Pharmacy*, 881 F.3d at 833; *ALRA Labs, Inc. v. Drug Enf't Admin.*, 54 F.3d 450, 452 (7th Cir. 1995). A registrant's acceptance of responsibility must be unequivocal. *Jones Total Health Care Pharmacy*, 881 F.3d at 830-31. In addition, a registrant's candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id*. Further, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id*. at 834 & n.4. The Agency has also considered the need to deter similar acts by the registrant and by the community of registrants. *Jeffrey Stein, M.D.*, 84 Fed. Reg. at 46,972-73.

Here, Registrant did not request a hearing and did not otherwise avail himself of the opportunity to refute the Government's case. As such, there is no record evidence that Registrant takes responsibility, let alone unequivocal responsibility, for the founded violations, meaning, among other things, that it is not reasonable to believe that Registrant's future controlled substance-related actions will comply with legal requirements. Accordingly, Registrant did not convince the Agency that he can be entrusted with a registration.

Further, the interests of specific and general deterrence weigh in favor of revocation. Given the foundational nature of Registrant's violations, a sanction less than revocation would send a message to the existing and prospective registrant community that compliance with the law is not a condition precedent to maintaining a registration.

In sum, Registrant has not offered any evidence on the record that rebuts the Government's case for revocation of his registration, and Registrant has not demonstrated that he can be entrusted with the responsibility of registration. Accordingly, the Agency will order the revocation of Respondent's registration.[9]

ORDER

[9] In this matter there are two separate and distinct grounds by which the Agency proposed revocation, Registrant lost state authority and his registration is outside the public interest; each ground, standing alone, supports the Agency's decision to revoke.

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificate of Registration No. MH7100124 issued to Scott Hansen, A.P.R.N. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Scott Hansen, A.P.R.N., to renew or modify this registration, as well as any other pending application of Scott Hansen, A.P.R.N., for additional registration in Washington. 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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