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DEPARTMENT OF JUSTICE
Drug Enforcement Administration

Haroon Hameed, M.D.; Decision and Order

I. INTRODUCTION

On March 25, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Haroon Hameed, M.D., of Stevensville, Maryland (Respondent). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, Attachment C, at 1, 5. The OSC proposed the revocation of Respondent's DEA Certificate of Registration No. FH8064204 and denial of any applications, alleging that Respondent has "committed such acts as would render [his] continued registration inconsistent with the public interest" and "materially falsified [his] application for renewal of [his] registration."[1] *Id*. at 1 (citing 21 U.S.C. 824(a)(1), (a)(4)).

More specifically, the OSC alleged that between October 2019 and May 2020, Respondent abused controlled substances and saw patients and performed medical procedures while abusing controlled substances. *Id*. at 2-3. Further, the OSC alleged that Respondent's renewal application contained material falsifications. *Id*. at 3-4. The OSC alleged that Respondent's above-described misconduct violated both the implementing regulations of the Controlled Substances Act (CSA) and Maryland state law. *Id*. at 2-4.

On April 28, 2022, Respondent filed a waiver of his right to a hearing along with a written statement and a proposed Corrective Action Plan, which DEA denied by letter dated May 5, 2022. RFAA, at 3; see also RFAAX 2-3. The Agency has considered Respondent's written statement and addresses the arguments made therein throughout this Decision.

After carefully reviewing the entire record and conducting the analysis as set forth in more detail below, the Agency grants the Government's request for final agency action and

[1] In the RFAA, the Government identified the renewal application at issue as being Control No. W18129086C. RFAA at 1-4, 7, 12-13.

revokes Respondent's registration and denies pending applications as his continued registration is inconsistent with the public interest.

II. PUBLIC INTEREST

A. Applicable Law

As the Supreme Court stated in *Gonzales v. Raich*, 545 U.S. 1 (2005), "the main objectives of the CSA were to conquer drug abuse and control the legitimate and illegitimate traffic in controlled substances." 545 U.S. at 12. *Gonzales* explained that:

> Congress was particularly concerned with the need to prevent the diversion of drugs from legitimate to illicit channels. To effectuate these goals, Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA . . . . The CSA and its implementing regulations set forth strict requirements regarding registration, labeling and packaging, production quotas, drug security, and recordkeeping.

Id. at 12-14.

The OSC is addressed to Respondent at his registered address in Maryland; therefore, the Agency also evaluates Respondent's actions according to Maryland law. *Gonzales v. Oregon*, 546 U.S. 243, 269-71 (2006). Pursuant to Maryland law, a Maryland medical licensee may be subject to disciplinary measures if, among other reasons, the licensee engages in any of the following: unprofessional conduct in the practice of medicine; habitual intoxication; addiction to or habitual abuse of a controlled substance; and providing professional services while under the influence of alcohol or while abusing a controlled substance. Md. Code Ann., Health Occ. § 14-404(a)(3)(ii), (7)-(9).

B. Findings of Fact

The Agency finds substantial record evidence for the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA dated August 16, 2024. Respondent was a board-certified practitioner of physical medicine and rehabilitation who provided pain management consultations for patients, prescriptions for pain medications, and surgical interventions to relieve pain. RFAAX 1, Attachment G, at 3.

On or about November 5, 2020, the Maryland State Board of Physicians (Board) summarily suspended Respondent's Maryland medical license following a Board investigation finding that Respondent had seen patients and performed medical procedures while under the influence of controlled substances and alcohol. RFAAX 1, Attachment F, at 2-6. One such incident occurred on August 28, 2019, when Respondent performed a radiofrequency ablation instead of a cervical facet block which had been ordered and consented to in writing. *Id.* at 4. On February 17, 2020, Respondent was observed to be swaying while he performed a procedure on a patient, and staff suspected that he was impaired due to slurred speech, bloodshot eyes, and the smell of alcohol on his person. *Id*. at 5. On May 5, 2020, Respondent was observed at work with disheveled clothing and appearance, glassy and heavy eyes, slurred speech, and a lack of coordination. *Id.* at 6.

On November 6, 2020, the Board issued charges against Respondent under the Maryland Medical Practice Act, with the allegations including: 1) unprofessional conduct in the practice of medicine; 2) professional, physical, or mental incompetence; 3) habitual intoxication; 4) addiction to or habitual abuse of narcotics or controlled substances; and 5) providing professional services while under the influence of alcohol or while abusing narcotics or controlled dangerous substances or other drugs. RFAAX 1, at 3.

On or about November 1, 2021, the Board issued a Final Decision and Order regarding Respondent's Maryland medical license, finding, *inter alia*, that: 1) every night between October 2019 and May 2020, Respondent consumed a combination of oxycodone (a Schedule II opioid), eszopiclone (a Schedule IV sedative), and alcohol, RFAAX 1, Attachment G, at 2; 2) on May 5, 2020, Respondent reported to work intoxicated following consumption of alcohol, oxycodone, and eszopiclone in excess of the prescribed dose, *Id.* at 6-8; and 3) on multiple occasions, including on February 17, 2020, Respondent saw patients and performed medical procedures while under the influence of a combination of an opioid, sedative, and alcohol. *Id.* at 5-6, 8.

Respondent, in this matter, admitted that he was "intoxicated" and "unable to perform [his] job on May 5[, 2020]" because he had taken "an extra dose of both the oxycodone [he] was prescribed for pain and [eszopiclone], which [he] was prescribed for insomnia." RFAAX 2, at 23. As for February 17, 2020, Respondent admitted that he "combined [his] prescription medication with alcohol the night before . . . [and] was not in proper physical condition to work on that date." *Id*. at 23-24.

Ultimately, the Board affirmed the suspension of Respondent's Maryland medical license and ordered that the suspension remain in effect until he completed the Maryland Professional Rehabilitation Program.[2] *Id.* at 15. It found that Respondent: 1) was guilty of unprofessional conduct in the practice of medicine; 2) was habitually intoxicated; 3) was addicted to, or habitually abused, a controlled substance; and 4) provided professional services while under the influence of alcohol or while abusing a controlled substance. *Id.* at 14. Respondent does not contest the Board's findings and admits that "his actions rightfully led to the temporary suspension of his medical license." *Id*.

Accordingly, the Agency finds substantial record evidence that between October 2019 and May 2020, Respondent habitually abused a combination of controlled substances and alcohol resulting in habitual intoxication, consumed controlled substances in excess of the prescribed dose, and on multiple occasions saw patients and performed medical procedures while under the influence of controlled substances and/or alcohol. RFAAX 1, Attachment C, at 2-3.

C. Discussion

i. The Controlled Substances Act's Public Interest Factors

The Attorney General "may deny, suspend, or revoke [a] registration if . . . the [registrant's] registration would be 'inconsistent with the public interest.'" *Gonzales v. Oregon*, 546 U.S. at 251 (quoting 21 U.S.C. 824(a)(4)). In the case of a "practitioner," Congress directed

[2] On or about November 30, 2021, the Board ended the suspension of Respondent's Maryland medical license, reinstated Respondent's Maryland medical license, and placed Respondent's Maryland medical license on probation for a period of three years. RFAAX 1, Attachment H, at 3.

the Attorney General to consider five factors in making the public interest determination. *Id.*; 21 U.S.C. 823(g)(1)(A-E).[3]

The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. at 292-93 (Scalia, J., dissenting) ("It is well established that these factors are to be considered in the disjunctive" (quoting *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. *David H. Gillis, M.D.*, 58 Fed. Reg. 37,507, 37,508 (1993); *see Morall v. Drug Enf't Admin.*, 412 F.3d 165, 181 (D.C. Cir. 2005) (describing the Agency's adjudicative process as "applying a multi-factor test through case-by-case adjudication" (quoting *LeMoyne-Owen Coll. v. N.L.R.B.*, 357 F.3d 55, 61 (D.C. Cir. 2004))). Any one factor, or combination of factors, may be decisive, *David H. Gillis, M.D.*, 58 Fed. Reg. at 37,508, and the Agency "may give each factor the weight . . . deem[ed] appropriate in determining whether a registration should be revoked or an application for registration denied." *Morall*, 412 F.3d. at 185 n.2 (Henderson, J., concurring) (quoting *Robert A. Smith, M.D.*, 70 Fed. Reg. 33,207, 33,208 (2007)); *see also Penick Corp. v. Drug Enf't Admin.*, 491 F.3d 483, 490 (D.C. Cir. 2007).

Moreover, while the Agency is required to consider each of the factors, it "need not make explicit findings as to each one." *MacKay v. Drug Enf't Admin.*, 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman v. U. S. Drug Enf't Admin.*, 567 F.3d 215, 222 (6th Cir. 2009)); *Jones Total Health Care Pharmacy, LLC v. Drug Enf't Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Hoxie v. Drug Enf't Admin.*, 419 F.3d 477, 482 (6th Cir. 2005). "In short, . . . the Agency is not

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[3] The five factors 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.

21 U.S.C. 823(g)(1)(A-E).

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, Agency decisions have explained that findings under a single factor can support the revocation of a registration. *MacKay*, 664 F.3d at 821.

The Government has the burden of proof in this proceeding. 21 CFR 1301.44(d)-(e).

ii. Respondent's Registration Is Inconsistent with the Public Interest

While the Agency has considered all the public interest factors of 21 U.S.C. 823(g)(1),[4] the Agency finds that the Government's evidence in support of its *prima facie* case is confined to Factors B and D.[5] RFAA, at 9-12. Evidence is considered under Factors B and/or D when it reflects experience in dispensing and/or compliance or non-compliance with federal and local laws related to 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 found above, the Agency finds that between at least October 2019 and May 2020, Respondent habitually abused a combination of controlled substances and alcohol resulting in habitual intoxication, consumed controlled substances in excess of the prescribed dose, and on

[4] As to Factor A, the record contains no evidence of a recommendation from any State licensing board or professional disciplinary authority. 21 U.S.C. 823(g)(1)(A). Nonetheless, an absence of such evidence "does not weigh for or against a determination as to whether continuation of [or granting of a] DEA certification is consistent with the public interest." *Roni Dreszer, M.D.*, 76 Fed. Reg. 19,434, 19,444 (2011). As to Factor C, there is no evidence in the record that Respondent has been convicted of an offense under either Federal or State law "relating to the manufacture, distribution, or dispensing of controlled substances." 21 U.S.C. 823(g)(1)(C). However, as Agency cases have noted, "the absence of such a conviction is of considerably less consequence in the public interest inquiry" and is therefore not dispositive. *Dewey C. MacKay, M.D.*, 75 Fed. Reg. 49,956, 49,973 (2010).

[5] The Government alleged in the RFAA that Factor E, "[s]uch *other* conduct which may threaten the public health and safety," weighed in favor of revocation. 21 U.S.C. 823(g)(1)(E) (emphasis added); RFAA, at 10-11. The Agency notes that Respondent "stipulate[ed]" that he had "engaged in other conduct which may threaten the public health and safety." RFAAX 2, at 10. While the Agency agrees that Respondent's conduct, particularly his performance of procedures while under the influence of alcohol and controlled substances, threatened the public health and safety, the same conduct fits squarely under Factor B and D as reflecting experience in dispensing and/or establishing violations of Maryland law. Accordingly, the Agency evaluates the conduct under Factor B and D. As to Factor B, Respondent argues that his experience in dispensing controlled substances is unblemished. RFAAX 2, at 9. The Agency disagrees; Respondent's admission that he took more controlled substances than he was prescribed is relevant to his experience in dispensing. *Id.*, at 23-24; see also 21 U.S.C. 802(10).

multiple occasions, saw patients and performed medical procedures while under the influence of controlled substances and alcohol. *Supra*, I.B.

As such, the Agency finds substantial record evidence that Respondent engaged in unprofessional conduct in the practice of medicine in violation of Md. Code Ann., Health Occ. § 14-404(a)(3)(ii); was habitually intoxicated in violation of Md. Code Ann., Health Occ. § 14-404(a)(7); was addicted to or a habitual abuser of a narcotic or controlled dangerous substance in violation of Md. Code Ann., Health Occ. § 14-404(a)(8); and provided professional services while under the influence of alcohol or while abusing any narcotic or controlled dangerous substance in violation of Md. Code Ann., Health Occ. § 14-404(a)(9).[6]

The Agency further finds that after considering the factors of 21 U.S.C. 823(g)(1), Respondent's continued registration is "inconsistent with the public interest." 21 U.S.C. 824(a)(4). Accordingly, the Government satisfied its *prima facie* burden of showing that Respondent's continued registration would be "inconsistent with the public interest." *Id*. The Agency also finds that there is insufficient mitigating evidence to rebut the Government's *prima facie* public interest case. Thus, the Agency must determine whether, in spite of the public interest determination, Respondent can be trusted with a registration. *Infra*, IV.

III. MATERIAL FALSIFICATION

A. Findings of Fact

The Agency finds clear, unequivocal, and convincing record evidence for each of the following facts. On October 31, 2021, Respondent applied for renewal of his DEA Certificate of Registration. RFAAX 1, at 5; see also RFAAX 1, Attachment B. All applications for a DEA registration contain four liability questions that an applicant must answer. RFAAX 1, Attachment B, at 1. For each question the applicant answers in the affirmative, he or she must provide additional details regarding the answer, including the date, location, nature, and result of

[6] Any one of these found violations of Maryland law standing alone is a sufficient basis for the Agency to revoke Respondent's registration on the grounds that it is outside the public interest.

the incident. *Id*. at 2. The OSC alleges that Respondent materially falsified his answers to both Liability Question 1 and Liability Question 3. RFAAX 1, Attachment C, at 3.

The Agency finds clear, unequivocal, and convincing record evidence that Liability Question 1 asks: "Has the applicant ever been convicted of a crime in connection with controlled substance(s) under state or federal law, or been excluded or directed to be excluded from participation in a Medicare or state health care program, or [is] any such action pending?" RFAAX 1, at 5; RFAAX 1, Attachment B, at 1. On his October 31, 2021 application, Respondent answered "No" to Liability Question 1. RFAAX 1, at 5; RFAAX 1, Attachment B, at 1. The OSC alleges that this answer was false. RFAAX 1, Attachment C, at 3.

The Agency finds clear, unequivocal, and convincing record evidence that by letter dated June 24, 2021, the Maryland Department of Health notified Respondent that "in accordance with General Medical Assistance Provider Participation Criteria Regulation 10.09.36.02 License Requirements [he was] terminated as a Medicaid provider for all items and services rendered, ordered, or prescribed effective December 11, 2020." RFAAX 1, at 5; RFAAX 1, Attachment I. The June 24, 2021 notification letter does not use the word "excluded." RFAAX 1, Attachment I. Respondent, in his Declaration, states that he knew as of September 2021 that his Medicaid privileges were "revoked" due to "the suspension of his [medical] license."[7] Respondent's Statement, Exhibit 2, at 6.

The Agency finds clear, unequivocal, and convincing record evidence that Liability Question 3 asks: "Has the applicant ever surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation or is any such action pending?" RFAAX 1, at 5; RFAAX 1, Attachment B, at 1. On his October 31, 2021 renewal application, Respondent answered "Yes" to Liability Question 3. RFAAX 1, Attachment B, at 1-2. When prompted to explain the "Nature" of the incident

[7] See also Respondent's Statement, Exhibit 2, at 14 ("Dr. Hameed's Medicaid privileges were revoked . . . on June 24, 2021, . . . His Medicare privileges were likewise revoked on September 18, 2021.").

Respondent disclosed: "I had my Maryland license suspended after a complaint regarding that I presented to work drowsy for 30-45 min a few weeks after having a hip replacement." *Id.* at 2 (capitalization edited). Respondent went on to state that he has "complied with the Maryland Physician Health Program" and that his Maryland license is being considered for reinstatement; he also stated that his Florida license was unrestricted. *Id.* Finally, Respondent stated that "[he] did not have any issues that were pertinent to DEA licensure including improper prescribing of controlled substance prescriptions." *Id.* Regarding the "Result" of the state action against him, Respondent wrote "awaiting expected Maryland license reinstatement within the next 2 weeks." *Id*. (capitalization edited).

The record evidence establishes that Respondent in fact had "[his] Maryland license suspended," and that the suspension occurred "after a complaint." RFAAX 2, at 3. The record evidence also indicates that Respondent's hip "required surgical intervention on February 20, 2020." *Id*. at 36. The record evidence further establishes that a few weeks later, Respondent presented to work drowsy. *Id.* Specifically, the record establishes that on May 5, 2020, "[Respondent] overslept and arrived at work ten to fifteen minutes late." *Id.* Respondent admitted that he had taken oxycodone and eszopiclone and had consumed alcohol the night before "to aid with sleep and pain." *Id.* Respondent further admitted "that when he arrived at the facility on the morning of May 5, 2020, he was impaired by sleep deprivation, use of a sleep aid in excess of the prescribed dose, and use of a Schedule II narcotic pain medication prescribed to alleviate his chronic pain." *Id.* at 37. On November 30, 2021, about a month after Respondent submitted the application, the Maryland Board terminated his suspension and reinstated his state medical license (and placed it on probation). RFAAX 1, Attachment C, at 2.

B. DISCUSSION

i. Legal Elements of Material Falsification and Government's Burden

To present a *prima facie* case for material falsification, the Government's record evidence must show (1) the submission of an application, (2) containing a false statement and/or

omitting information that the application requires, (3) when the submitter knew or should have known that the statement is false and/or that the omitted information existed and the application required its disclosure, and (4) the false statement and/or required but omitted information is material, that is, it "connect[s] to at least one of [the section 823] factors that, according to the CSA, [the Administrator] 'shall' consider" when analyzing "whether issuing a registration 'would be inconsistent with the public interest.'" *Frank Joseph Stirlacci, M.D.*, 85 Fed. Reg. 45,229, 45,238 (2020) (citing 21 U.S.C. 823 and *Kungys v. United States*, 485 U.S. 759, 771 (1988)). The Government must establish material falsification with record evidence that is clear, unequivocal, and convincing. *Kungys*, 485 U.S. at 772; *Stirlacci*, 85 Fed. Reg. at 45,230-39.

First, the Government must prove that the applicant or registrant submitted an application for registration pursuant to the CSA. 21 U.S.C. 824(a)(1); see also 21 U.S.C. 822 (persons required to register); 21 U.S.C. 823(g)(1) (registration requirements).

Second, the Government must prove that the application contained a false statement or omitted information that the application required, either of which may constitute a material falsity. *See, e.g.*, *Emed Medical Company LLC and Med Assist Pharmacy*, 88 Fed. Reg. 21,719, 21,720 (2023) (applicant falsely answered "no" to Liability Question 3 on seventeen applications when the true answer was "yes"); *Richard J. Settles, D.O.*, 81 Fed. Reg. 64,940, 64,945-46 (2016) (applicant failed to disclose an interim consent agreement restricting his license based on findings that he issued controlled substance prescriptions without federal or state legal authority to do so). In making this assessment, the Agency will examine the entire application, including registrant's "yes/no" answers to the liability questions and any follow-up response(s). *Daniel A. Glick, D.D.S.*, 80 Fed. Reg. 74,800, 74,802, 74,808-09 (2015). To establish an omission, the Government must show both that omitted information existed and that the application required inclusion of that information. *See, e.g.*, *Richard A. Herbert, M.D.*, 76 Fed. Reg. 53,942, 53,956 (2011) (omission of a probation which the application required to be identified); *Michel P. Toret, M.D.*, 82 Fed. Reg. 60,041, 60,042 (2017) (Voluntary Surrender Form alone is insufficient

evidence to find material falsification based on registrant's "no" answer to the question regarding "surrender[s] (for cause)").

Third, the Government must prove that the applicant or registrant knew or should have known that the statement is false and/or that the omitted information existed and the application required its disclosure. *See John J. Cienki, M.D.*, 63 Fed. Reg. 52,293, 52,295 (1998) ("[I]n finding that there has been a material falsification of an application, it must be determined that the applicant knew or should have known that the response given to the liability question was false."); *Samuel Arnold, D.D.S.*, 63 Fed. Reg. 8,687, 8,688 (1998) ("It is also undisputed that Respondent knew that his Ohio dental license had previously been suspended."); *Bobby Watts, M.D.*, 58 Fed. Reg. 46,995, 46,995 (1993) ("Respondent knew that the Tennessee Board of Medical Examiners had suspended his medical license on May 7, 1987, and had placed his state medical license on probation on May 2, 1988."); *see also Stirlacci*, 85 Fed. Reg. at 45,236-37 & nn.22-23 (collecting cases).

Fourth, the Government must prove that the false statement and/or required but omitted information is "material." *Kungys* holds that a statement is material if it is "predictably capable of affecting, *i.e.*, had a natural tendency to affect, the [Agency's] official decision," or stated differently, "had a natural tendency to influence the decision." 485 U.S. at 771-72. As already discussed, materiality, for the purposes of the CSA, is tied to the factors that the Administrator "shall" consider when determining whether issuance of a registration "would be inconsistent with the public interest." 21 U.S.C. 823; *Kungys*, 485 U.S. at 771-72; *Stirlacci*, 85 Fed. Reg. at 45,234, 45,238.

Here, the Agency finds that the Government's evidence fails to meet the *prima facie* burden of showing that Respondent submitted a materially false application. 21 U.S.C. 824(a)(1).

ii. Determining Whether the Government's Evidence Establishes a *Prima Facie* Case of Material Falsification

The first element of the Government's *prima facie* case of material falsification under 21 U.S.C. 824(a)(1) is that the applicant or registrant submitted an application for DEA registration pursuant to the CSA. 21 U.S.C. 824(a)(1). Here, the Government has shown by clear, unequivocal, and convincing record evidence that Respondent applied for renewal of his DEA Certificate of Registration on October 31, 2021. RFAAX 1, Attachment B.

Second, the Government must show that the application contained a false statement or omitted information that the application required, either of which can constitute a falsity. Here, the Government's allegations concern both—that Respondent made a false statement with regard to Liability Question 1 and that he made a false statement and omitted required information with regard to Liability Question 3.

As discussed above, Liability Question 1 asks whether Respondent has ever "been excluded or directed to be excluded from participation in a . . . state health care program . . . ?" *Supra*, III.A; RFAAX 1, Attachment B. Liability Question 1 is meant to obtain information necessary to conduct the analysis in 21 U.S.C. 824(a)(5)[8] which allows for denial, revocation, or suspension of a registration if the registrant "has been excluded (or directed to be excluded) from participation in a program pursuant to section [42 U.S.C.] 1320a-7(a)." "Exclusion" is a specific, but undefined, statutory term used in 42 U.S.C. 1320a-7 which governs exclusion of certain individuals and entities from participation in Medicare and state health care programs.

Prior to submitting his renewal application, the state notified Respondent that pursuant to "[Maryland] regulation 10.09.36.02 License Requirements, [he was] terminated as a Medicaid provider." *Supra*, III.A; RFAAX 1, Attachment I. The notice did not use the word "excluded" or cite to 42 U.S.C. 1320a-7(a).[9] RFAAX 1, Attachment I. Put another way, there is no

[8] A statutory basis to deny an application pursuant to section 823 is also a basis to revoke or suspend a registration pursuant to section 824, and vice versa, because doing "otherwise would mean that all applications would have to be granted only to be revoked the next day . . . ." *Robert Wayne Locklear, M.D.*, 86 Fed. Reg. 33,738, 33,744-45 (2021) (collecting cases).

[9] Both the OSC and the RFAA appear to conflate the terms "termination" and "exclusion" without providing any evidence or argument supporting the position that the two terms mean the same thing. *See* RFAA, at 12-13; RFAAX 1, Attachment C, at 3. However, comparing Maryland regulation 10.09.36.02, the authority relied upon to

evidence in the record that Respondent's "termination" meant that he was "excluded" from a state health care program pursuant to 42 U.S.C. 1320a-7(a). Accordingly, the Government has not established by clear, unequivocal, and convincing record evidence that Respondent's "no" answer in response to Liability Question 1 was false. Because the record evidence does not prove that Respondent provided a false answer to Liability Question 1, the Agency need not reach the issue of materiality regarding the answer to Liability Question 1.[10]

Continuing the analysis, Respondent truthfully answered Liability Question 3 in the affirmative, stating that his state license had been suspended. *Supra*, III.A. Thereafter, Respondent was prompted to explain the "Nature" and "Result" of the state action against him. *Id.* The Government argued that Respondent's explanation falsified and/or omitted required information such that the narrative response was "materially false." More specifically, the Government argued that Respondent "provided a false response as to why his Maryland state license was suspended" and that there is a "vast[]" difference between what Respondent wrote about being "drowsy" and the finding that Respondent provided professional services while abusing controlled substances.[11] RFAA, at 13, 17; RFAAX 1, Attachment C, at 3. The Government also argued that Respondent falsely stated that his "issues were not pertinent to DEA licensure." RFAA, at 13.

In determining whether Respondent made a false statement and/or omitted required information, the Agency looks carefully at the exact language used in the application itself and the exact language used by the applicant. *See JM Pharmacy Group, Inc. d/b/a Farmacia Nueva*

"terminate" Respondent's participation, to 42 U.S.C. 1320a-7, the authority discussing "exclusions" from participation in Medicare and state health care programs, suggests that the two terms are not synonymous.

[10] The Agency notes that only *mandatory* exclusions under 42 U.S.C. 1320a-7(a) are grounds for potential denial, revocation, or suspension of a registration by DEA. 21 U.S.C. 824(a)(5). Respondent argues that his "answer to liability question one cannot have been material because his exclusion from the government programs in question was permissive rather than mandatory," and DEA is only permitted to take action when a registrant's exclusion is mandatory. Respondent's Response, RFAAX 2, at 15. While Respondent's Response states that he was permissively excluded pursuant to 42 U.S.C. 1320a-7, the only evidence supporting the suggestion is Respondent's declaration stating "my Medicare privileges were also later revoked." RFAAX 2, at 25. "Revoked" is yet another term that may or may not mean "excluded" in this context. Ultimately, since there is not clear, unequivocal, and convincing record evidence of a falsification, the Agency need not reach the issue of materiality.

[11] The Agency notes that Respondent did not receive the Board's Final Order finding habitual abuse of a narcotic or controlled dangerous substance until after he submitted his renewal application. RFAAX 2, at 22.

and Best Pharma Corp., 80 Fed. Reg. 28,667, 28,681 (2015) (stating that a falsity must be analyzed in the context of the application requirements sought by DEA and provided by the applicant). Regarding "Nature" and "Result" Respondent wrote:

> Nature: I had my Maryland license suspended after a complaint regarding that I presented to work drowsy for 30-45 minutes a few weeks after having a hip replacement. I have complied with the Maryland Physician Health Program to their full extent, and my license has been recommended for reinstatement by the Administrative Law Judge [B.W.], and I have had a hearing and expect reinstatement in Maryland in the next week. My Florida license was not suspended and the Florida Department of Health is aware of the process and has been kept up to date, and my license is full and unrestricted there. I did not have any issues that were pertinent to DEA licensure including improper prescribing of controlled substance prescriptions.
>
> Result: Awaiting expected Maryland license reinstatement within the next 2 weeks.

RFAAX 1, Attachment B, at 2 (capitalization edited).

Regarding falsity, two of Respondent's statements in his application are untrue. *See also supra*, III.A. First, Respondent wrote that the complaint that resulted in his Maryland suspension alleged that Respondent was drowsy. RFAAX 1, Attachment B, at 2. However, the record evidence establishes that the anonymous complaint that led to Respondent's summary suspension actually "alleg[ed] that [Respondent] had performed the wrong surgical procedure on a patient and had appeared at the Facility for work under the influence of unknown intoxicants." RFAAX 1, Attachment F, at 2. Respondent's description of the complaint and the actual complaint differ significantly. Additionally, the record evidence establishes that Respondent knew or should have known that the complaint made against him alleged more than just drowsiness as the complaint was included in Maryland's November 5, 2020 "Order for Summary Suspension of License to Practice Medicine." RFAAX 1, Attachment F, at 2. Based on the above, the Agency finds clear, unequivocal, and convincing record evidence that Respondent's description of the complaint made against him was false.

Second, regarding the suspension of his Maryland license, Respondent wrote that he "did not have any issues that were pertinent to DEA licensure including improper prescribing of controlled substance prescriptions." RFAAX 1, Attachment B, at 2 (capitalization edited). The mere fact that Respondent's license (as stated in the first sentence of the same paragraph) was suspended is pertinent to DEA licensure pursuant to 21 U.S.C. 824(a)(3) and (4). Moreover, the record evidence establishes that Respondent admitted, and therefore knew, that he used controlled substances in excess of the dose prescribed to him which, as discussed above, is pertinent to his DEA licensure. *See supra*, II.B. Accordingly, the Agency finds clear, unequivocal, and convincing record evidence that Respondent's statement that he "did not have any issues pertinent to DEA licensure" is also false. RFAAX 1, Attachment B, at 2 (capitalization edited).

In addition to the two falsities above, the Government alleges an omission; specifically, that Respondent's application failed to disclose that his medical license was suspended based on, among other reasons, "a finding that he habitually abused a narcotic or controlled dangerous substance." RFAA, at 13. This argument fails for two reasons, first the "habitual intoxication" charge was not found until November 1, 2021, after Respondent submitted the application. RFAAX 1, Attachment G, at 9, 13-14, 20. The record does not contain any evidence regarding an applicant's duty, if any, to supplement the application after the date it is submitted to DEA. Second, there is no evidence in the record regarding specific instructions, if any exist, included with the application that specify the level of detail the Government requires in response to the prompts for "Nature" and "Result" of the state action. Certainly some detail is required, as the prompts are follow up questions asking for an explanation, and Respondent did provide details about the complaint, problems with drowsiness at work following surgery, and the suspension of his license. Respondent argued that he "could have provided a more detailed explanation of the specific charges brought before the Maryland Board, his

summary suspension, and the ALJ's recommendation . . . [if he was] aware that it was expected, let alone required, to do so." RFAAX 2, at 18. Under the circumstances, the Agency finds that the Government has failed to establish by clear, unequivocal, and convincing record evidence that Respondent falsified his application by omitting information regarding the Maryland Board's Final Decision and Order (which had not yet been issued). However, the two false statements found by the Agency require further analysis.

Next, the Agency analyzes whether the two false statements in Respondent's application were material, "*i.e.*, had a natural tendency to affect, the [Agency's] official decision," or stated differently, "had a natural tendency to influence the decision." *Kungys*, 485 U.S. at 771-72.

Liability Question 3 is relevant to the Agency analysis under 21 U.S.C. 824(a)(3) and 823(g), because possession of authority to dispense controlled substances under the laws of the state in which Respondent engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006). Furthermore, Liability Question 3 is also relevant because it could lead to information relevant to the public interest analysis that the Agency is required to conduct when making registration decisions. 21 U.S.C. 824(a)(4), 823(g)(1)(A-E).

Here, Respondent disclosed on the application that there was a complaint made against him that resulted in a suspension of his Maryland medical license on November 5, 2020. RFAAX 1, Attachment B, at 2. He disclosed that the complaint was made because he reported to work "drowsy" after having surgery. *Id*. He explained that he had participated in the Maryland Physician Health Program. *Id*. He explained that he was expecting reinstatement of his Maryland license in the near future and that he has already had a hearing on the matter. *Id*. He explained that the Florida Department of Health was also aware of the events in Maryland, yet he maintained his license in Florida. *Id*.

In other words, Respondent provided DEA with a significant amount of truthful information – enough to alert the Agency to allegations of misconduct involving his practice of medicine and the adverse action against his state license. Given the significant amount of truthful information that was provided, and the fact that the truthful information informed DEA that his state license had been suspended due to allegations of misconduct at work, the two false statements' capability to affect the official decision is not shown by clear, unequivocal, and convincing evidence.[12] *Kungys*, 485 U.S. at 771-72.

In sum, because the Government is unable to establish by clear, unequivocal, and convincing record evidence that Respondent's application contained falsities that were also material, the Government has not established a *prima facie* case of material falsification. However, as previously discussed, the Government has established that Respondent's registration is inconsistent with the public interest.

IV. SANCTION

Here, the Government has met its *prima facie* burden of showing that Respondent's continued registration is inconsistent with the public interest due to his violations of state law relating to controlled substances and experience in dispensing with respect to controlled substances. Accordingly, the burden shifts to Respondent to show why he can be entrusted with a registration. *Morall*, 412 F.3d. at 174; *Jones Total Health Care Pharmacy*, 881 F.3d at 830; *Garrett Howard Smith, M.D.*, 83 Fed. Reg. 18,882, 18,904 (2018).

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[12] Regarding the first falsity, whether the initial complaint that led to the Maryland suspension alleged "drowsiness" (as Applicant wrote) or "being under the influence" (as the record established) was unlikely to impact the Agency's ultimate decision in light of Respondent's disclosure that he was found to have engaged in misconduct which resulted in a suspension of his Maryland license. Put another way, the CSA makes clear that the Maryland Board's findings and suspension of Respondent's license impact the Agency's decision making, but the record does not make clear how the characterization of the complaint itself could impact the decision. Regarding the second falsity, DEA, not an applicant for registration, is charged with conducting the public interest analysis under 21 U.S.C. 823(g) and cannot and would not sidestep its statutorily mandated duty just because the applicant says his misconduct is not "pertinent" to the analysis. Moreover, Respondent's statement that he had no issues pertinent to DEA licensure could not be relied upon by DEA because in the same statement he discloses one or more issues that were clearly pertinent to DEA licensure.

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, Respondent asserts in his written statement responding to the OSC that he "has accepted full responsibility." RFAAX 2, at 12. Specifically, he expressed "great regret and deep remorse for the unprofessional conduct demonstrated by [his] actions . . . [which were] detrimental not only to [his] medical practice, but to [his] life as a whole." RFAAX 2, at 25. Respondent also asserts that he "is thankful to have the ability and chance, through continued work on [his] sobriety, to ensure that substance abuse never again threatens [his] license, [his] practice, [his] patients, or [him]self." RFAAX 2, at 25-26. While Respondent has generally accepted responsibility as to his controlled substance abuse, his acceptance of specific violative acts has not been unequivocal.

In his Declaration, Respondent swore to all the ways he believed he was in compliance with the CSA. He claimed that he had "never prescribed any substance for myself[,] . . . sought nor received prescriptions for pain medicine from more than one treating physician at a time[,] . .

. never diverted any controlled substances[, and] . . . never been accused of dispensing controlled substances in an unethical or illegal manner." RFAAX 2, at 23. Immediately after, Respondent admits that on or about May 5, 2020, he "[took] an extra dose of both the oxycodone [he] was prescribed for pain and [eszopiclone], which [he] was prescribed for insomnia." *Id*. Respondent's failure to appreciate that taking more controlled substances than prescribed is drug abuse, which the CSA was enacted to prevent, calls into question whether the Agency can trust Respondent with a registration.[13] This is especially true where Respondent deemphasizes his drug abuse by emphasizing that the extra doses he took were for "medicine that was lawfully prescribed to him for existing and documented medical conditions." RFAAX 2, at 10. Trying to downplay the seriousness of his drug abuse further demonstrates that he cannot be trusted with registration. *See, e.g.*, *Phong H. Tran, M.D.*, 90 Fed. Reg. 14,383, 14,385 (2025) ("Respondent's attempts to minimize this egregious misconduct undermine any purported acceptance of responsibility.").

Also of concern is Respondent's failure to fully accept responsibility for his misconduct on February 17, 2020. In his Declaration, Respondent swore that "[he] did not believe that [he] was intoxicated at work on that date, [but he] did combine [his] prescription medication with alcohol the night before . . . [and] admit[s] that [he] was not in proper physical condition to work." RFAAX 2, at 23-24. While Respondent swore that he "accept[ed] the factual conclusions of the . . . Maryland Board regarding [his] intoxication," *id.*, his refusal to admit to anything more than not being in a "proper physical condition to work" prohibits a finding of unequivocal acceptance of responsibility.

Accordingly, the Agency finds that Respondent has not demonstrated unequivocal acceptance of responsibility for the totality of the founded violations in this matter. When a registrant fails to make the threshold showing of acceptance of responsibility, the Agency need

[13] The CSA was "[e]nacted in 1970 with the main objectives of combating drug abuse and controlling the legitimate and illegitimate traffic in controlled substances." *Gonzales*, 546 U.S. at 250.

not address the registrant's remedial measures. *Ajay S. Ahuja, M.D.*, 84 Fed. Reg. 5,479, 5,498 n.33 (2019) (citing *Jones Total Health Care Pharmacy, L.L.C. & SND Health Care, L.L.C.*, 81 Fed. Reg. 79,188, 79,202-79,203 (2016)); *Daniel A. Glick, D.D.S.*, 80 Fed. Reg. 74,800, 74,801, 74,810 (2015).[14]

Further, the interests of specific and general deterrence weigh in favor of revocation. Here, Respondent has not unequivocally accepted responsibility for, and even tried to minimize, his actions related to abuse of controlled substances. Accordingly, the interests of specific deterrence weigh in favor of revocation. Given the foundational nature of Respondent'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 essential to maintaining a registration.

V. CONCLUSION

In sum, Respondent has not offered sufficient evidence on the record to rebut the Government's case for revocation on public interest grounds, and Respondent has not demonstrated that he can be entrusted with the responsibility of registration. Accordingly, the Agency will order that Respondent's registration be revoked.

[14] Even so, in the current matter, the Agency has considered that Respondent has taken various measures to remedy his misconduct regarding his controlled substance and alcohol abuse, as detailed in his written submission to DEA. *See* RFAAX 2, at 3-4, 5-6, 9, 11-12. Respondent stated that he completed all of the actions recommended by the Maryland Physician Health Program (MPHP), and "has remained sober and abstinent from controlled substances" since December 2020 (except for a two-week period following surgery in 2021). RFAAX 2, at 24-25. The Agency has acknowledged that "[i]n self-abuse cases, . . . successful rehabilitation efforts are an important consideration in determining whether a respondent can be trusted with a registration." *Trenton F. Horst, D.O.*, 80 Fed. Reg. 41,079, 41,091 (2015); *see also Abbas E. Sina, M.D.*, 80 Fed. Reg. 53,191, 53,201 (2015) ("[T]he risk of relapse becomes critical in determining what steps are warranted when determining the public interest."). Here, Respondent explained what he had done to obtain sobriety, but many of his actions were required by the Maryland Board as part of his probation. *See Mary A. Vreeke, M.D.*, 89 Fed. Reg. 75,567, 75,571 (2024). And though Respondent has not explained what he planned to do to remain sober if his probationary period with the Maryland Board ended, the Agency appreciates that Respondent has committed to continue working on his sobriety for himself and not just for his career. RFAAX 2, at 25-26. Still, these remedial measures do not overcome the fact that Respondent did not unequivocally accept responsibility for his actions or convince the Agency that he can be trusted with the responsibility of a registration. *See, e.g.*, *George D. Gowder, III*, 89 Fed. Reg. 76,152, 76,154-55 (2024) (the Agency found that registrant could be trusted in light of his acceptance of responsibility and extensive remedial measures (both past and future), including his decision to not seek registration to handle the controlled substances he formerly abused, and nine years of sobriety).

ORDER

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. FH8064204 issued to Haroon Hameed, M.D. 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 Haroon Hameed, M.D., to renew or modify this registration, as well as any other pending application of Haroon Hameed, M.D., for additional registration in Maryland. 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 September 10, 2025, by Administrator Terrance Cole. 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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