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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 25-20]

Rachel Kientcha-Tita, M.D.;

Decision and Order

On November 13, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Rachel Kientcha-Tita, M.D. (Respondent), of Houston, Texas. OSC, at 1, 3. The OSC proposed the revocation of Respondent's DEA Certificate of Registration (registration), No. FK0843462, and denial of her renewal application for the same, alleging that Respondent has been, and continues to be, mandatorily excluded from participation in Medicare, Medicaid, and all federal health care programs pursuant to 42 U.S.C. 1320a-7(a). *Id*., at 2 (citing 21 U.S.C. 824(a)(5)).

A hearing was held before DEA Chief Administrative Law Judge (ALJ) John J. Mulrooney, II, who, on May 19, 2025, issued his Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (RD). The RD recommended that Respondent's registration be revoked and her application for renewal be denied. RD, at 19. The Government filed exceptions to the RD.[1, 2] Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the Chief ALJ's

[1] In the Government's first exception to the RD, the Government contends that Respondent consented by implication to litigate a public interest issue that was not properly noticed in the OSC. Throughout the DEA hearing, testimony and evidence were presented relating to this public interest allegation. Tr. 84-103, 119-40; Government Exhibit (GX) 13-15. However, the Agency agrees with the Chief ALJ that Respondent did not consent to litigating the public interest issue by express or implied consent. RD, at 7 n.15; ALJ Exhibit 22, at 1; *see also Bradley H. Chesler, M.D.*, 87 Fed. Reg. 4,917, 4,931 (2022). Accordingly, the Agency rejects the Government's first exception to the RD; none of the introduced public interest testimony or evidence was considered in reaching this decision.

[2] The Government's second exception is a technical correction to the Chief ALJ's reference to GX 12 as Respondent's "renewal application." RD, at 17. The Government correctly points out that GX 12 is actually Respondent's original application for registration which was filed and granted in 2021.

rulings, credibility findings,[3] findings of fact, conclusions of law, sanctions analysis, and recommended sanctions in the RD, and clarifies and expands upon portions thereof herein.

I. APPLICABLE LAW

Pursuant to 21 U.S.C. 824(a)(5), the Agency[4] is authorized to suspend or revoke a registration upon finding that the registrant "has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a-7(a) of Title 42." The Agency has consistently held that it may also deny an application upon finding that an applicant has been excluded from a federal health care program. *Mark Agresti, M.D.*, 90 Fed. Reg. 30,098, 30,099 (2025); *Samirkumar Shah, M.D.*, 89 Fed. Reg. 71,931, 71,933 (2024); *Arvinder Singh, M.D.*, 81 Fed. Reg. 8,247, 8,248 (2016).

II. FINDINGS OF FACT

In 2015, Respondent pled guilty to one count of conspiracy to commit health care fraud in violation of 18 U.S.C. 1349.[5] RD, at 5; GX 9, 10. As a result of Respondent's criminal conviction based on her guilty plea, the U.S. Department of Health and Human Services, Office of Inspector General (HHS/OIG), excluded Respondent, effective August 20, 2017, from participation in Medicare, Medicaid, and all federal health care programs pursuant to 42 U.S.C. 1320a-7(a) for a period of fifteen years.[6] RD, at 5; GX 2. Accordingly, the Agency finds substantial record evidence[7] that Respondent has been, and continues to be, excluded from participation in federal health care programs.

III. DISCUSSION

The Agency agrees with the Chief ALJ and finds substantial record evidence that Respondent has been, and remains, mandatorily excluded from federal health care programs

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[3] The Agency adopts the Chief ALJ's summary of the witnesses' testimonies as well as the Chief ALJ's assessment of the witnesses' credibility. RD, at 4-10. The Agency agrees with the Chief ALJ that the testimony from the DEA Diversion Investigator, which was primarily focused on the introduction of the Government's documentary evidence, was "sufficiently plausible, internally consistent, and detailed to be afforded full credibility." *Id*., at 7.
[4] The Controlled Substances Act (CSA) delegates power to the Attorney General, who has delegated it to the Administrator of the DEA (the Agency) by 28 CFR 0.100.
[5] Respondent stipulated to this fact. *See* ALJ Exhibit 9, at 3 (Stipulation 4).
[6] Respondent stipulated to this fact. *See* ALJ Exhibit 9, at 3 (Stipulation 6).
[7] Where the Respondent has stipulated to a fact, the Agency exceeds the "substantial record evidence" standard.

pursuant to 42 U.S.C. 1320a-7(a),[8] and Respondent has admitted to the same. RD, at 5, 11; GX 2; ALJ Exhibit 9, at 3. Accordingly, the Agency finds that substantial record evidence establishes the Government's *prima facie* case for revoking Respondent's registration under 21 U.S.C. 824(a)(5), that Respondent did not rebut that *prima facie* case, and that there is substantial record evidence supporting the revocation of Respondent's registration and denial of her application.

Additionally, the Agency finds it is expedient to discuss an underlying issue in this case: that in 2021, Respondent applied for and was granted a registration by DEA while being mandatorily excluded.[9] GX 1 and 12. The Agency rejects Respondent's arguments that by granting her the 2021 registration, DEA "tacitly accept[ed]" her qualifications, *see* ALJ Exhibit 8, at 3, or that the Agency may not now revoke her registration due to her mandatory exclusion because it previously granted it while she was similarly excluded.[10] *See* ALJ Exhibits 12 and 16. The Agency *may* suspend, revoke, or deny a registration if it finds that an applicant or registrant "has been excluded" from Medicare, Medicaid, or another federal health care program mandated by 42 U.S.C 1302a-7(a). 21 U.S.C. 824(a)(5) (emphasis added). This plain language entails that the Agency has discretion[11] in choosing to suspend, revoke, or deny a registration for any person

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[8] The Agency has consistently held that it may revoke a registration under 21 U.S.C. 824(a)(5) even if the conviction underlying the exclusion does not relate to controlled substances. *See, e.g.*, *Phong H. Tran, M.D.*, 90 Fed. Reg. 14,383, 14,384 n.10 (2025) (collecting cases).

[9] There is also a counter issue raised by the Government and addressed in the RD regarding whether Respondent provided proper notice to DEA that she was mandatorily excluded when she applied for a registration in 2021. *See* GX 12, at 1-2; ALJ Exhibit 13, at 4-5; RD, at 17. However, the Agency declines to address this issue at this time because it is not material to the disposition of this case.

[10] Prior to her DEA hearing, Respondent argued in a motion to dismiss that DEA was precluded from now revoking her registration under the doctrine of laches, a sub-doctrine of equitable estoppel. ALJ Exhibit 12, at 3-4. The Agency agrees with the reasons provided by the originally assigned ALJ in denying Respondent's motion to dismiss. ALJ Exhibit 17, at 5-7. These arguments were briefly reraised in the DEA hearing, *see* Tr. 12-13, 22-25, and briefly addressed in the RD. RD, at 6. The Agency agrees with the ALJ and Chief ALJ that Respondent's argument has no merit. The United States Supreme Court has consistently determined that no doctrine of equitable estoppel may be invoked against the Government where it would operate to defeat the effective operation of a policy adopted to protect the public. *See Office of Personnel Management v. Richmond*, 496 U.S. 414, 427-28 (1990); *Heckler v. Cmty. Health Servs. of Crawford County, Inc.*, 467 U.S. 51, 61-66 (1984); *INS v. Miranda*, 459 U.S. 14, 18 (1982). Congress established the CSA to protect the public. *Gonzales v. Raich*, 545 U.S. 1, 12-14 (2005). Therefore, when acting under its CSA prerogative to protect the public, as here, the Agency is shielded from equitable estoppel. *See Pettigrew Rexall Drugs*, 64 Fed. Reg. 8,855, 8,859 (1999) (finding that laches could not be invoked against the Agency).

[11] The CSA gives the Agency discretionary authority for suspending, revoking, or denying a registration. *See, e.g.*, *Gonzales v. Oregon*, 546 U.S. 243, 251 (2006). Because this authority is discretionary, the Agency may make a decision that is contrary to its previous decisions, so long as that decision is permitted under statute and is not

who currently is mandatorily excluded or who has been mandatorily excluded in the past but is not currently.[12]

IV. SANCTION

Where, as here, the Government has met its *prima facie* burden of showing that Respondent's registration should be revoked and her application denied, the burden shifts to Respondent to show why she can be entrusted with a registration. *Morall v. Drug Enf't Admin.*, 412 F.3d. 165, 174 (D.C. Cir. 2005); *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). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual respondent. *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, the Agency has required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that they 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). The Agency requires a registrant's unequivocal acceptance of responsibility. *Janet S. Pettyjohn, D.O.*, 89 Fed. Reg. 82,639, 82,641 (2024); *Mohammed Asgar, M.D.*, 83 Fed. Reg. 29,569, 29,573 (2018); *see also Jones Total Health Care Pharmacy*, 881 F.3d at 830-31. In addition, a registrant's candor during the investigation and hearing is an important factor in

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"arbitrary and capricious." *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *see also Frank Joseph Stirlacci, M.D.*, 85 Fed. Reg. 45,229, 45,236 n.20 (2020). Therefore, in this case, the Agency may revoke Respondent's registration, despite previously granting it, in light of a "renewed focus on enforcement." *Terrance C. Cole Sworn in as Administrator of the U.S. Drug Enforcement Administration*, DEA Public Affairs (July 25, 2025), https://www.dea.gov/press-releases/2025/07/25/terrance-c-cole-sworn-administrator-us-drug-enforcement-administration. Accordingly, whether Respondent's 2021 registration was granted intentionally or by mistake is irrelevant to the Agency's present and perpetuous discretionary authority to impose the sanction it deems appropriate at this time. *See* RD, at 6.

[12] The phrase "has been" is used here in the present perfect tense, "denoting 'an act, state, or condition that is now completed or continues up to the present.'" *Meija-Castanon v. Att'y General of the United States*, 931 F.3d 224, 233 n.10 (3rd Cir. 2019) (quoting Chicago Manual of Style § 5.132, at 268 (17th ed. 2017)); *see also United States v. Hernandez*, 107 F.4th 965, 969 (11th Cir. 2024) (same, relating to "has not been"). "It is used to refer either to time in the indefinite past, or past action that continues until the present." *Meija-Castanon*, 931 F.3d at 233 n.10. In this case, by adding the word "excluded," the phrase refers to anyone who is currently excluded from any of the enumerated programs or who has been excluded in the past but is not currently. Because Respondent's mandatory exclusion is encompassed by the plain language of the statute, the Agency may revoke her registration.

determining acceptance of responsibility and the appropriate sanction. *See Jones Total Health Care Pharmacy*, 881 F.3d at 830-31; *Hoxie v. Drug Enf't Admin.*, 419 F.3d 477, 483-84 (6th Cir. 2005). Further, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *See Jones Total Health Care Pharmacy*, 881 F.3d at 833 n.4, 834. The Agency also considers the need to deter similar acts by a respondent and by the community of registrants. *Jeffrey Stein, M.D.*, 84 Fed. Reg. at 46,972-73.

While Respondent testified that she "really regretted" her criminal conduct, the Agency agrees with the Chief ALJ that Respondent failed to unequivocally accept responsibility for her misconduct. Tr. 62; RD, at 14-15. Respondent's testimony continually downplayed her role in the criminal conduct to which she pled guilty. "Throughout the hearing, Respondent remained steadfast in her view that she acted appropriately based on her subjective belief that no fraud was occurring." RD, at 8; Tr. 59-61, 67-69. Despite pleading guilty to conspiracy to commit health care fraud, Respondent was unable to describe what she actually pled to doing. RD, at 8; Tr. 67-70. Instead, Respondent stated that her guilty plea was the product of her criminal defense attorney's advice and her own "exhaust[ion] with the [criminal] process." Tr. 69-70, 81. This culminated in Respondent passing blame to others, specifically her coconspirators, and stating that she actually did not have any direct responsibility in the crime that occurred. Tr. 72-82.

The Agency agrees with the Chief ALJ that "the conspiracy that formed the basis of the misconduct was complex, lengthy in duration, and targeted many patients who labored under profound mental impairments." RD, at 13; *see also* Tr. 72-80, 116-19; GX 10. During the hearing, Respondent "essentially disavowed any understanding of the details of the actions that formed the basis of her conviction." RD, at 9; *see Bernadette U. Iguh*, *M.D.*, 87 Fed. Reg. 56,709, 56,711 (2022) ("Respondent's emphasis on her ignorance as the cause of her misconduct, in tandem with Respondent's lack of emphasis on the damages she caused, both serve to downplay the extent to which her own actions and decisions were harmful.").

Respondent's attempts to minimize this egregious misconduct undermine any purported acceptance of responsibility. *Michael A. White v. Drug Enf't Admin.*, 626 F. App'x 493, 496-97 (5th Cir. 2015); *see also Phong H. Tran, M.D.*, 90 Fed. Reg. at 14,385. Accordingly, the Agency finds that Respondent did not unequivocally accept responsibility for her actions.

When a registrant fails to make the threshold showing of acceptance of responsibility, the Agency need 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, 79,202-03 (2016)); *Daniel A. Glick, D.D.S.*, 80 Fed. Reg. 74,800, 74,801, 74,810 (2015).[13]

The Agency further agrees with the Chief ALJ that Respondent's actions in the underlying criminal conduct are egregious such that revocation of her registration and denial of her application are appropriate.[14] RD, at 12-13. In addition to acceptance of responsibility, the Agency considers both specific and general deterrence when determining an appropriate sanction. *Daniel A. Glick, D.D.S.*, 80 Fed. Reg. at 74,810. Regarding specific deterrence, the Agency agrees with the Chief ALJ that based on Respondent's inconsistent testimony, "it would

[13] Respondent did provide examples of certain remedial measures. First, Respondent noted that her state medical license has been fully restored. GX 8. The Agency agrees with the Chief ALJ that the mere existence of state authority to handle controlled substances does not entitle a person to a DEA registration. RD, at 18-19; *see Robert A. Leslie, M.D.*, 68 Fed. Reg. 15,227, 15,230 (2003) (noting that a "state license is a necessary, but not a sufficient condition for registration"). Respondent further explained that she is trying to repay her debt to society by educating other medical providers to not make the same mistakes she made, by taking steps to ensure her own compliance with the law, and by undertaking two medical missions to Cameroon to render medical assistance during the civil crisis there. Tr. 56-57, 62-63. However, without an unequivocal acceptance of responsibility, Respondent's remedial measures are insufficient for the Agency to determine that Respondent can be trusted with a registration. *See Lewisville Medical Pharmacy*, 87 Fed. Reg. 59,456, 59,460 n.16 (2022); *Brenton D. Wynn, M.D.*, 87 Fed. Reg. 24,228, 24,261 (2022); *Michael T. Harris, M.D.*,87 Fed. Reg. 30,276, 30,278-79 (2022).

[14] The Agency has found that "defrauding health care programs is egregious," in and of itself. RD, at 13; *Gilbert Y. Kim, D.D.S.*, 87 Fed. Reg. 21,139, 21,145 (2022); *Samirkumar Shah, M.D.*, 89 Fed. Reg. at 71,934. Furthermore, Respondent's mandatory exclusion period was set at fifteen years. GX 2, at 1. This is ten years in excess of the mandatory minimum prescribed by statute. *See* 42 U.S.C. 1320a-7(c)(3)(B); *see also Michael Jones, M.D.*, 86 Fed. Reg. 20,728, 20,732 (2021) (an exclusion period in excess of the statutory minimum can be considered on the issue of egregiousness). Additionally, the Texas Medical Board requested that Respondent's punishment be "more severe and restrictive" that normal due to the egregiousness of the underlying offense. RD, at 14 n.34; GX 5, at 5. Accordingly, the Agency agrees with the Chief ALJ's egregiousness assessment. However, the Agency does note that Respondent received a reduced criminal sentence due to her cooperation with the underlying criminal investigation. GX 10, at 2, 7.

be objectively unreasonable to conclude that she would avoid similar mistake[s] in the future."[15] RD, at 17. Regarding general deterrence, the Agency agrees with the Chief ALJ that the interests of general deterrence also support revocation of Respondent's registration and denial of her application, as a lack of sanction in the current matter would send a message to the registrant community that a registrant can commit similar misconduct without consequences. RD, at 17-18.

In sum, the Agency agrees with the Chief ALJ that Respondent has not offered any credible evidence on the record to rebut the Government's *prima facie* case for revocation of her registration or denial of her application, and Respondent has not met her burden to demonstrate that she can be entrusted with the responsibility of registration. RD, at 19. Accordingly, the Agency will order that Respondent's registration be revoked and her renewal application be denied.

ORDER

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823 and 824(a)(5), I hereby revoke DEA Certificate of Registration No. FK0843462 issued to Rachel Kientcha-Tita, M.D., as well as deny any other pending application of Rachel Kientcha-Tita, M.D., to renew or modify this registration. I further, pursuant to the same, deny any other pending application of Rachel Kientcha-Tita, M.D., for registration in Texas. 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 17, 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

[15] Concerning the Chief ALJ's continued specific deterrence assessment, RD, at 17, it is not necessary to evaluate the candor of Respondent's 2021 application for DEA registration, GX 12, at 1-2, because the Agency already finds Respondent's testimony to be inconsistent. *See supra* n.9.

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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