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**DEPARTMENT OF JUSTICE**
**Drug Enforcement Administration**

**Jody Adams, N.P.;**
**Decision and Order**

On June 21, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Jody Adams, N.P., of Ridgeland, Mississippi (Respondent). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 2, at 1, 5. The OSC proposed the denial of Respondent's application for DEA registration, Control No. W24008696M, alleging that Respondent's registration would be inconsistent with the public interest. *Id*. at 1 (citing 21 U.S.C. 823(g)(1)). More specifically, the OSC alleged that Respondent illegally issued three prescriptions for controlled substances without a DEA Registration. *Id*. at 3. The OSC alleged that the issuance of these prescriptions violated both state and federal law.[1] *Id*. (citing 21 U.S.C. 822; 21 CFR 1301.11; 30 Miss. Code R. 2840-1.5).

On January 15, 2025, the Government submitted an RFAA requesting that the Agency issue a default final order denying Respondent's application for registration. RFAA, at 4.[2] 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 denies Respondent's application for registration.

## I. DEFAULT DETERMINATION

Under 21 CFR 1301.43, a registrant entitled to a hearing who fails to file a timely hearing request "within 30 days after the date of receipt of the [OSC] . . . shall be deemed to have waived their right to a hearing and to be in default" unless "good cause" is established for the failure. 21 CFR 1301.43(a) & (c)(1). In the absence of a demonstration of good cause, a registrant who fails

[1] The Agency need not adjudicate the criminal violations alleged in the instant OSC. *Ruan v. United States*, 597 U.S. 450 (2022) (decided in the context of criminal proceedings).
[2] The RFAA states that "the Administrator is authorized to render the Agency's final order without . . . making a finding of fact." RFAA, at 4 (citing 21 CFR 1301.43(c), (f), and 1301.46). However, 21 CFR 1316.67 requires that the Administrator's final order "set forth the final rule and the findings of fact and conclusions of law upon which the rule is based." *See JYA LLC d/b/a Webb's Square Pharmacy*, 90 Fed. Reg. 31,244, 31,246 n.7 (2025).

to timely file an answer also is "deemed to have waived their right to a hearing and to be in default." 21 CFR 1301.43(c)(2). Unless excused, a default is deemed to constitute "an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Here, the OSC notified Respondent that should she request a hearing and file an answer and then fail to appear at the designated hearing, she would be deemed to have waived her right to a hearing and be in default. RFAAX 2, at 3 (citing 21 CFR 1301.43). Respondent timely filed a request for a hearing and an answer; however, on September 10, 2024, Respondent withdrew her hearing request. RFAA, at 2.[3] Subsequently, the Administrative Law Judge issued an order terminating the proceeding. *Id*.

Consistent with the intent and purpose of the default provisions, the Agency has determined that a voluntary withdrawal of a hearing request demonstrates a respondent's desire to no longer defend his/her case and contest the allegations of the OSC. *See* 21 CFR 1301.43(c); *see also Default Provisions for Hearing Proceedings Relating to the Revocation, Suspension, or Denial of a Registration*, 87 Fed. Reg. 68,036, 68,037-38 (Nov. 14, 2022). Accordingly, the Agency has determined that a voluntarily withdrawal constitutes a default under 21 CFR 1301.43(c) for failure to defend. *See Salman Akbar, M.D.*, 89 Fed. Reg. 82,259, 82,259 (2024) ("By voluntarily withdrawing his hearing request, Respondent 'fail[ed] to . . . otherwise defend.'")). Thus, the Agency finds that Respondent is in default and therefore has admitted to the factual allegations in the OSC. 21 CFR 1301.43(e).

## II. APPLICABLE LAW

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

[3] As Respondent filed a request for a hearing, the Agency finds that the Government's service of the OSC was adequate.

> 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 CSA requires that "every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the [DEA] a registration." 21 U.S.C. 822(a)(2); *see also Gonzales v. Raich*, 545 U.S. at 27-28. The term "dispense" means "to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery." 21 U.S.C. 802(10). Moreover, under Mississippi law, "every APRN authorized to practice in Mississippi who prescribes any controlled substance within Mississippi . . . must be registered with and act in abidance with the [DEA] in compliance with Title 21 CFR Part 1301 Food and Drugs." 30 Miss. Code R. 2840-1.5(c)(1).

## III. FINDINGS OF FACT

In light of Respondent's default, the factual allegations in the OSC are deemed admitted. 21 CFR 1301.43(e). Accordingly, Respondent admits that between January 18, 2023, and January 29, 2024, she illegally issued three prescriptions for controlled substances without a DEA registration, including two prescriptions for testosterone, a Schedule III controlled substance, and one prescription for pregabalin, a Schedule V controlled substance. RFAAX 2, at 3.[4]

Accordingly, the Agency finds more than substantial record evidence that Respondent issued three prescriptions for controlled substances without a DEA registration.

[4] Respondent previously had two DEA registrations (MA1562657 and MA5540554) but voluntarily surrendered them on February 2, 2016, and October 11, 2022, respectively. RFAAX 2, at 2-3. At the time Respondent issued these prescriptions, she had not had an active DEA registration since October 11, 2022. *Id*. at 3.

## IV. PUBLIC INTEREST DETERMINATION

### A. Legal Background on Public Interest Determinations

When the CSA's requirements are not met, 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. 243, 251 (2006) (quoting 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. *Id.*; 21 U.S.C. 823(g)(1)(A-E).[5]

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. 4447, 4448 (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). Any one factor, or combination of factors, may be decisive, *id.*, 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);

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[5] The five factors are:

(A) The recommendation of the appropriate State licensing board or professional disciplinary authority.
(B) The applicant's experience in dispensing or conducting research with respect to controlled substances.
(C) The applicant'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).

*Hoxie v. Drug Enf't Admin.*, 419 F.3d 477, 482 (6th Cir. 2005). "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, Agency decisions have explained that findings under a single factor can support the revocation of a registration. *MacKay*, 664 F.3d at 821; *see also Robert Wayne Locklear, M.D.*, 86 Fed. Reg. 33,738, 33,744-45 (2021) (explaining the statutory bases to revoke a registration may also serve as bases to deny an application).

The Government has the burden of proof in this proceeding. 21 CFR 1301.44(d) (granting or denying an application).

**B. 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),[6] the Government's evidence in support of its *prima facie* case is confined to Factors B and D. RFAAX 2, at 1. Evidence is considered under Factors B and D when it reflects compliance or non-compliance with laws related to controlled substances and experience dispensing controlled substances. *Kareem Hubbard, M.D.*, 87 Fed. Reg. 21,156, 21,162 (2022).

Here, as the Agency found above, and Respondent is deemed to have admitted, that Respondent issued three controlled substance prescriptions without a DEA registration. Accordingly, there is substantial record evidence in support of the Agency's finding that

[6] As to Factor A, there is no record evidence of disciplinary action against Respondent's state nurse practitioner license or Respondent's state registered nurse license for prescribing without DEA authority. 21 U.S.C. 823(g)(1)(A). However, "[t]he fact that the record contains no evidence of a recommendation by a state licensing board does not weigh for or against a determination as to whether continuation of the Respondent's 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 any federal or state law offense "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). As to Factor E, the Government's evidence fits squarely within the parameters of Factors B and D and does not raise "other conduct which may threaten the public health and safety." 21 U.S.C. 823(g)(1)(E). Accordingly, Factor E does not weigh for or against Respondent.

Respondent violated both federal and Mississippi state law, namely 21 U.S.C 822; 21 CFR 1301.11; and 30 Miss. Code R. 2840-1.5. The Agency further finds that after considering the factors of 21 U.S.C. 823(g)(1), Respondent's registration would be "inconsistent with the public interest." 21 U.S.C. 824(a)(4); *see also Richard J. Settles, D.O.*, 81 Fed. Reg. 64,940, 64,947 (2016) (finding respondent's registration would be inconsistent with the public interest where he prescribed controlled substances without a DEA registration); *John V. Scalera*, 78 Fed. Reg. 12,092, 12,098 (2013) (same); *Belinda R. Mori, N.P.*, 78 Fed. Reg. 36,582, 36,588 (2013) (same); *Leo A. Farmer, M.D.*, 78 Fed. Reg. 27,997, 27,999 (2013) (same); *Glenn D. Krieger, M.D.*, 76 Fed. Reg. 20,020, 20,024 (2011) (same).

Accordingly, the Government satisfied its *prima facie* burden of showing that Respondent's registration would be "inconsistent with the public interest." 21 U.S.C. 824(a)(4). The Agency also finds that there is insufficient mitigating evidence to rebut the Government's *prima facie* case. Thus, the only remaining issue is whether, in light of the Agency's finding that Respondent violated the law, Respondent can be trusted with a registration.

## V. SANCTION

Where, as here, the Government has met the burden of showing that Respondent's registration would be inconsistent with the public interest, the burden shifts to Respondent to show why she 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). 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 requires that a registrant who has committed acts inconsistent with the public interest accept responsibility for those acts and demonstrate that she will not engage in future misconduct. *See 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 determining acceptance of responsibility and the appropriate sanction. *See Jones Total Health Care Pharmacy*, 881 F.3d at 830-31; *Hoxie*, 419 F.3d at 483-84. Further, the Agency considers the egregiousness and extent of the misconduct as significant factors in determining the appropriate sanction. *See Jones Total Health Care Pharmacy*, 881 F.3d at 834 & n.4. 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.

Here, Respondent requested a hearing and filed an answer to the OSC but later withdrew her request for a hearing. Thus, there is no record evidence that Respondent takes responsibility, let alone unequivocal responsibility, for the misconduct. Accordingly, she has not convinced the Agency that her future controlled-substance-related actions will comply with the CSA such that she can be entrusted with the responsibilities of a registration.

Further, the interests of specific and general deterrence weigh in favor of denial. Respondent's conduct in this matter concerns the CSA's strict requirements regarding registration and, therefore, goes 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." *Gonzales v. Raich*, 545 U.S. at 12-14. If the Agency were to issue a registration to Respondent under these circumstances, it would send a dangerous message that compliance with the law is not essential to obtaining a registration.

In sum, Respondent has not offered any credible evidence on the record that rebuts the Government's case for denial of her registration, and Respondent has not demonstrated that she can be entrusted with the responsibility of registration. Accordingly, the Agency will order the denial of Respondent's application for registration.

## ORDER

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny the application for a DEA Certificate of Registration, Control No. W24008696M, submitted by Jody Adams, N.P., as well as any other pending application of Jody Adams, N.P., for registration in Mississippi. This Order is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

## SIGNING AUTHORITY

This document of the Drug Enforcement Administration was signed on September 25, 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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