[4410-09-P]: 4410-09-P

DEPARTMENT OF JUSTICE
Drug Enforcement Administration

David S. Pecora, P.A.;
Decision and Order

On August 16, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to David S. Pecora, P.A., of Bemidji, Minnesota (Applicant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 15. The OSC proposed the denial of Applicant's application for DEA registration, Control Number W23054133M, alleging that he materially falsified multiple applications for registration and that his registration would be inconsistent with the public interest. *Id*. at 1 (citing 21 U.S.C. 823(g)(1), 824(a)(1)).[1]

On September 30, 2024, the Government submitted a RFAA to the Administrator requesting that the Agency issue a default final order denying Applicant's application. RFAA, at 1, 3-4. After carefully reviewing the entire record and conducting the analysis as set forth in detail below, the Agency grants the Government's request for final agency action and denies Applicant's application. As a preliminary matter, this Decision addresses whether or not Applicant is in default and finds that he is. Thereafter, this Decision makes specific factual findings on the alleged violations as set forth in the OSC. Specifically, this Decision considers whether Applicant submitted a materially false application and finds that he did. Additionally, this Decision considers whether Applicant's registration would be inconsistent with the public interest and finds that it would be. Lastly, this Decision determines that the appropriate sanction is denial of Applicant's application.

I. DEFAULT DETERMINATION

Under 21 CFR 1301.43, a registrant or applicant 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

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

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 or applicant who fails 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).

The OSC notified Applicant of his right to file a written request for a hearing and an answer, and that if he failed to file such a request and answer, he would be deemed to have waived his right to a hearing and be in default.[2] RFAAX 1, at 14 (citing 21 CFR 1301.43). Here, Applicant did not request a hearing, file an answer, or respond to the OSC in any way. RFAA, at 1-3. Accordingly, Applicant is in default. 21 CFR 1301.43(c)(1).

"A default, unless excused, shall be deemed to constitute a waiver of the [applicant's] right to a hearing and an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e). Because Applicant is in default and has not moved to excuse the default, the Agency finds that Applicant has admitted to the factual allegations in the OSC. 21 CFR 1301.43(c)(1), (e), (f)(1).

Further, "[i]n the event that [an applicant] . . . 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." 21 CFR 1301.43(f)(1). Here, the Government has requested final agency action based on Applicant's default pursuant to 21 CFR 1301.43(c)(1), (f)(1). RFAA, at 1-3; *see also* 21 CFR 1316.67.

II. FINDINGS OF FACT

[2] Based on the Government's submissions in its RFAA dated September 30, 2024, the Agency finds that service of the OSC on Applicant was adequate. Specifically, the Declaration from a DEA Diversion Investigator (DI) indicates that on August 26, 2024, DI served the OSC on Applicant in-person and Applicant signed and initialed each page of the OSC. RFAAX 2, at 1; RFAAX 3. Accordingly, the Agency finds that due process notice requirements have been satisfied. *Jones v. Flowers*, 547 U.S. 220, 226 (2006).

The Agency finds that, in light of Applicant's default, the factual allegations in the OSC are deemed admitted. 21 CFR 1301.43(e). Accordingly, Applicant is deemed to have admitted to each of the following facts.[3]

A. Material Falsification

January 2012 Application, Number W12001098M

On January 6, 2012, Applicant submitted an application for DEA registration, which was assigned control number W12001098M. RFAAX 1, at 9.

The application's Liability Question 3 asked: "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?" *Id*.

Applicant answered "no" to Liability Question 3. *Id*. In doing so, Applicant failed to disclose that: (a) in July 2007, Applicant's West Virginia registered nursing license, number 53904, was suspended; and (b) in October 2008, Applicant's Florida registered nursing license, number RN9221251, was suspended. *Id*. Applicant's January 2012 application was approved and assigned DEA registration number MP2562432. *Id*.

October 2013 Application, Number W13085169M

On October 12, 2013, Applicant submitted an application for DEA registration, which was assigned control number W13085169M. RFAAX 1, at 9.

The application's Liability Question 3 asked: "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?" *Id*.

Applicant answered "no" to Liability Question 3. *Id*. In doing so, Applicant failed to disclose that: (a) in July 2007, Applicant's West Virginia registered nursing license, number

[3] According to the Controlled Substances Act (CSA), "[f]indings of fact by the [DEA Administrator], if supported by substantial evidence, shall be conclusive." 21 U.S.C. 877. Here, where Applicant is found to be in default, all the factual allegations in the OSC are deemed to be admitted. These uncontested and deemed admitted facts constitute evidence that exceeds the "substantial evidence" standard of 21 U.S.C. 877; it is unrebutted evidence.

53904, was suspended; (b) in October 2008, Applicant's Florida registered nursing license, number RN9221251, was suspended; and (c) in July 2012, Applicant's application for a physician assistant license in North Dakota was denied. *Id*. at 9-10. Applicant's October 2013 application was approved and assigned DEA registration number MP3221417. *Id*.

January 2016 Application, Number W16005281M

On January 21, 2016, Applicant submitted an application for DEA registration, which was assigned control number W16005281M. RFAAX 1, at 10.

The application's Liability Question 2 asked: "Has the applicant ever surrendered (for cause) or had a federal controlled substances registration revoked, suspended, restricted, or denied, or is any such action pending?" *Id*.

Applicant answered "yes" to Liability Question 2. *Id*. In response to the application's direction to provide the date and location of the incident that prompted the affirmative answer, Applicant stated: "January 30, 2015," and "BEMIDJI, MINNESOTA." *Id*.

In response to the application's direction to provide the nature of the incident, Applicant stated: "ON 10/01/2014, I MISTAKENLY TOOK TABLETS OF SOMA.[4] DURING MY PREVIOUS ABUSE OF SOMA, I HAD PLACED SOME SOMA TABLETS IN THE SAME CONTAINER AS MY ASPIRIN. ON 10/01/2014, I DEVELOPED A HEADACHE AND WENT INTO MY BATHROOM WITHOUT TURNING ON THE LIGHT (AS LIGHT INCREASES MY HEADACHES). I TOOK OUT THE BOTTLE OF ASPIRIN AND POURED THEM INTO MY HAND. I TOOK TWO TABLETS. THIS WAS AN UNINTENTIONAL INJECTION OF SOMA." *Id*.

In response to the application's direction to provide the result of the incident, Applicant stated: "I WAS BEING MOUNTED BY MINNESOTA HEALTH PROFESSIONALS SERVICES PROGRAM. I DID A UA THE NEXT DAY. IT WAS POSITIVE FOR SOMA. AFTER AN INVESTIGATION BY MINNESOTA BOARD OF MEDICAL PRACTICE, THEY

[4] Soma is a brand name for carisoprodol. *See infra* n.7.

DETERMINED TREATMENT WAS NOT NECESSARY. FLORIDA PROFESSIONALS RESOURCE NETWORK BEGAN MONITORING ME (I ALSO HAVE A FLORIDA PA LICENSE). FLORIDA DID MANDATE TREATMENT. I WENT TO HAZELDEN BETTY FORD IN CENTER CITY, MN. I WAS THERE FOR 60 DAYS OF IN-PATIENT TREATMENT IN THE HEALTH CARE PROFESSIONALS SEC." *Id.*

These descriptions most closely resemble circumstances relating to DEA registration number MP3221417, which Applicant surrendered for cause on January 30, 2015. *Id*.

The application's Liability Question 3 asked: "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?" *Id*. at 11.

Applicant answered "yes" to Liability Question 3. *Id*. In response to the application's direction to provide the date and location of the incident that prompted the affirmative answer, Applicant stated: "September 15, 2013," and "MINNEAPOLIS, MN." *Id*.

In response to the application's direction to provide the nature of the incident, Applicant stated: "SOMETIME DURING THE FALL OF 2013, AND AFTER I COMPLETED 90-DAYS OF IN-PATIENT TREATMENT AT TALBOTT RECOVERY CAMPUS, I MEET WITH JACK HENDERSON & ANDY BIRD WITH THE MINNESOTA DEA AND SURRENDERED MY DEA LICENSE." *Id*.

In response to the application's direction to provide the result of the incident, Applicant stated: "MY DEA LICENSE WAS RE-ISSUED TO ME ABOUT A YEAR LATER." *Id*.

These descriptions most closely resemble circumstances relating to DEA registration number MP2562432, which Applicant surrendered for cause on June 4, 2013, and not any state professional license or state controlled substance registration. *Id*.

While Applicant made some disclosures in response to Liability Question 3, Applicant failed to disclose that: (a) in July 2007, Applicant's West Virginia registered nursing license, number 53904, was suspended; (b) in October 2008, Applicant's Florida registered nursing

license, number RN9221251, was suspended; (c) in July 2012, Applicant's application for a physician assistant license in North Dakota was denied; (d) in January 2014, Applicant's Minnesota physician assistant license, number 10593, was suspended and the suspension was stayed; (e) in November 2014, Applicant's Minnesota physician assistant license, number 10593, was suspended; (f) in January 2015, Applicant's Minnesota physician assistant license, number 10593, was indefinitely suspended; and (g) in November 2015, Applicant's Minnesota physician assistant license, number 10593, was reinstated, suspended, and the suspension was stayed. *Id*. Applicant's January 2016 application was approved and assigned DEA registration number MP4140478. *Id*.

Renewal Application of DEA registration, Number MP4140478

On February 11, 2020, Applicant submitted an application to renew DEA registration number MP4140478. RFAAX 1, at 12. The application's Liability Question 3 asked: "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?" *Id*. Applicant answered "yes" to Liability Question 3. *Id*.

In response to the application's direction to provide the date and location of the incident that prompted the affirmative answer, Applicant stated: "February 11, 2020," and "NOTHING NEW TO REPORT." *Id*. In response to the application's direction to provide the nature of the incident, Applicant stated: "NOTHING NEW TO REPORT SINCE LAST REGISTRATION." *Id*. In response to the application's direction to provide the result of the incident, Applicant stated: "NOTHING NEW TO REPORT." *Id*.

Applicant's follow-up responses to Liability Question 3 were false because Applicant again failed to disclose the incidents in West Virginia, Florida, North Dakota, and Minnesota that made his application, number W16005281M, false. *Id*. Applicant's February 2020 renewal application for registration number MP4140478 was approved. *Id*.

May 2023 Application, Number W23054133M

On May 2, 2023, Applicant submitted an application for DEA registration, which was assigned control number W23054133M. RFAAX 1, at 12.

The application's Liability Question 2 asked: "Has the applicant ever surrendered (for cause) or had a federal controlled substances registration revoked, suspended, restricted, or denied, or is any such action pending?" *Id*. Applicant answered "yes" to Liability Question 2. *Id*. In response to the application's direction to provide the date and location of the incident that prompted the affirmative answer, Applicant stated: "February 10, 2022," and "MINNESOTA." *Id*.

In response to the application's direction to provide the nature of the incident, Applicant stated: "MY MN PHYSICIAN ASSISTANT LICENSE WAS SUSPENDED DUE TO MY DIVERSION OF PROPOFOL FOR SELF USE. I THEN HAD TO SURRENDER MY MN DEA REGISTRATION DUE TO MY MN PHYSICIAN ASSISTANT LICENSE BEING SUSPENDED."[5] *Id*. In response to the application's direction to provide the result of the incident, Applicant stated: "I SURRENDERED MY MN DEA REGISTRATION." *Id*.

These descriptions most closely resemble circumstances relating to DEA registration number MP4140478, which Applicant surrendered for cause on November 16, 2021. *Id*.

Though Applicant made some disclosures, he failed to disclose that he surrendered two additional DEA registrations. Specifically, he failed to disclose that on June 4, 2013, he surrendered for cause DEA registration number MP2562432, and on January 30, 2015, he surrendered for cause DEA registration number MP3221417. *Id*. at 13.

Liability Question 3 asked: "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?" *Id*. Applicant answered "yes" to Liability Question 3. *Id*. In response to the application's direction to provide the date and location, Applicant stated: "May 1, 2021," and "MINNESOTA." *Id*.

[5] Propofol is a Schedule IV depressant. 21 CFR 1308.14(c)(27); RFAAX 1, at 8.

In response to the application's direction to provide the nature of the incident, Applicant stated: "I DIVERTED PROPOFOL FOR SELF-USE IN AUGUST OF 2020 IN THE COUNTRY OF CURACAO WHILE ON A COVID-19 RAPID RESPONSE TEAM. I SELF-REPORTED THIS DIVERSION TO THE MINNESOTA HEALTH PROFESSIONALS SERVICES PROGRAM." *Id.*

In response to the application's direction to provide the result of the incident, Applicant stated: "MY MINNESOTA PHYSICIAN ASSISTANT LICENSE WAS SUSPENDED." *Id.* These descriptions most closely resemble circumstances relating to the indefinite suspension of Applicant's Minnesota physician assistant license, number 10593, on September 11, 2021. *Id.*

Again, Applicant failed to disclose the incidents in West Virginia, Florida, North Dakota, and Minnesota that made his application, number W16005281M, and his renewal application of registration number MP4140478, false. *Id.* at 13-14. Additionally, Applicant failed to disclose that on March 11, 2023, Applicant's Minnesota physician assistant license, number 10593, was suspended and the suspension was stayed. *Id.* at 14.

B. Public Interest

Applicant is deemed to have admitted that in 2007, he was addicted to zolpidem[6] and underwent treatment at a chemical addiction recovery program for sedative-hypnotic addiction. RFAAX 1, at 4.

In 2013, Applicant was abusing carisoprodol[7] and was being monitored by the Florida Professionals Resource Network. *Id.* at 6. In April 2013, Applicant wrote a prescription for a volleyball teammate for 90 tablets of carisoprodol that authorized refills, and in exchange, Applicant's volleyball teammate promised to fill the prescription and provide Applicant with 30 carisoprodol tablets. *Id.* Applicant's volleyball teammate supplied Applicant with 30 of the carisoprodol tablets, which Applicant consumed. *Id.*

[6] Zolpidem is a Schedule IV depressant. 21 CFR 1308.14(c)(58); RFAAX 1, at 4.
[7] Carisoprodol is a Schedule IV depressant. 21 CFR 1308.14(c)(7); RFAAX 1, at 6.

Approximately one month later, Applicant wrote another prescription for a different volleyball teammate for 90 tablets of carisoprodol that authorized refills, and in exchange, Applicant's second volleyball teammate promised to fill the prescription and provide Applicant with 30 carisoprodol tablets. *Id*. Applicant's second volleyball teammate supplied Applicant with 30 of the carisoprodol tablets, which Applicant consumed. *Id*.

In the summer of 2013, Applicant ordered carisoprodol tablets through the Internet not for a legitimate medical purpose and not within the usual course of Applicant's professional practice. *Id*. The carisoprodol tablets were delivered to Applicant while he was a patient at a chemical addiction recovery program, which he attended from June 2013 to August 2013. *Id*.

On October 8, 2014, and October 20, 2014, Applicant tested positive for carisoprodol on two separate toxicology screens, when he did not have a prescription for carisoprodol. *Id*. at 7.

In November 2015, Applicant consented to a stipulation and order issued by the Minnesota Board of Medical Practice after Applicant demonstrated completion of in-patient chemical dependency treatment, regular attendance at self-help program meetings, and random drug testing administered by the Florida Professionals Resource Network. *Id*. The stipulation and order required Applicant to demonstrate three years of uninterrupted recovery from substance abuse. *Id*.

In November 2020, Applicant stole propofol from an operating room for his own personal use. *Id*. at 8.

In September 2021, Applicant was subject to a stipulation and order issued by the Minnesota Board of Medical Practice that required Applicant to demonstrate six months of uninterrupted recovery from substance abuse, negative results on twelve random toxicology screens per quarter, regular attendance at self-help meetings in support of recovery, completion of a neuropsychological evaluation, and certification from medical professionals that Applicant was competent to safely resume practice. *Id*.

III. DISCUSSION

A. Material Falsification

A DEA registration may be denied, suspended, or revoked upon a finding that the applicant or registrant materially falsified any application filed pursuant to or required by the Controlled Substances Act (CSA). 21 U.S.C. 824(a)(1).[8] 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*, 485 U.S. at 771). 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

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[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).

The Supreme Court's decision in *Kungys v. United States*, 485 U.S. 759 (1988), and its progeny, guide the Agency's implementation of these CSA provisions.

(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." *Kungys*, 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.

The Government has the burden of proof in this proceeding, and the Agency must make its findings based on clear, unequivocal, and convincing record evidence. 21 CFR 1301.44(d); *Kungys*, 485 U.S. at 772; *Stirlacci*, 85 Fed. Reg. at 45,230-39. Here, the Agency finds that the Government's record evidence presents a *prima facie* case that Applicant submitted five materially false applications. 21 U.S.C. 824(a)(1).

January 2012 Application, Number W12001098M

The Agency finds the following facts based on clear, unequivocal, and convincing record evidence. On January 6, 2012, Applicant submitted an application for DEA registration, which was assigned control number W12001098M. RFAAX 1, at 9. Liability Question 3 asked whether Applicant had ever had any adverse action against a state professional license, to include revocation, suspension, probation, or denial. *Id*. Applicant falsely answered "no." *Id*. Applicant's "no" answer to Liability Question 3 was false because he knew or should have known that information existed that the application required to be disclosed in response to Liability Question 3. *Id*. Specifically, Applicant knew or should have known that in July 2007 his West Virginia nursing license was suspended and that in October 2008 his Florida nursing license was suspended. *Id*.

Additionally, Applicant's false answer was material. The CSA provides that suspension of a state license is one basis by which the Attorney General may suspend or revoke a DEA registration, and therefore, it is a relevant statutory factor for determining whether issuance or maintenance of a registration is inconsistent with the CSA.[9] 21 U.S.C. 823(g)(1), 824(a)(3);

[9] Because the bases for revocation listed in 21 U.S.C. 824 may also serve as bases to deny an application, *see supra* n.8, a finding of materiality may also be tied to 21 U.S.C. 824(a)(1)-(5).

Emed Medical Company LLC and Med Assist Pharmacy, 88 Fed. Reg. at 21,720. Thus, whether an applicant has had a state license suspended is a relevant factor DEA must consider when reviewing an application, and failure to disclose such information has "a natural tendency to influence the [Agency's] decision." *Kungys*, 485 U.S. at 771-72.

Accordingly, the falsity in Applicant's January 2012 application directly affected the statutory analysis that DEA was required to make when it reviewed his application. 21 U.S.C. 823(g)(1), 824(a)(3). Thus, the falsity was material because it was "predictably capable of affecting . . . [DEA's] official decision" regarding whether Applicant met "the requirements for" registration. *Kungys*, 485 U.S. at 771.

In sum, the Agency finds clear, unequivocal, and convincing record evidence that Applicant's January 6, 2012 application for DEA registration, control number W12001098M, was materially false. 21 U.S.C. 824(a)(1); RFAAX 1, at 9.

October 2013 Application, Number W13085169M

The Agency finds the following based on clear, unequivocal, and convincing record evidence. On October 12, 2013, Applicant submitted an application for DEA registration, which was assigned control number W13085169M. RFAAX 1, at 9. Liability Question 3 asked whether Applicant had ever had any adverse action against a state professional license, to include revocation, suspension, probation, or denial. *Id*. Applicant falsely answered "no." *Id*. Applicant's "no" answer to Liability Question 3 was false because he knew or should have known that information existed that the application required to be disclosed in response to Liability Question 3. *Id*.

Specifically, Applicant knew or should have known that in July 2007 his West Virginia nursing license was suspended, in October 2008 his Florida nursing license was suspended, and in 2012 his application for a physician assistant license was denied in North Dakota. *Id*. at 9-10.

Additionally, Applicant's false answer was material. The CSA provides that suspension or lack of a state license is one basis by which the Attorney General may suspend, revoke, or

deny a DEA registration, and therefore, it is a relevant statutory factor for determining whether issuance or maintenance of a registration is inconsistent with the CSA. 21 U.S.C. 823(g)(1), 824(a)(3); *Emed Medical Company LLC and Med Assist Pharmacy*, 88 Fed. Reg. at 21,720. Thus, whether an applicant has had a state license suspended or denied is a relevant factor DEA must consider when reviewing an application, and failure to disclose such information has "a natural tendency to influence the [Agency's] decision." *Kungys*, 485 U.S. at 771-72.

Accordingly, the falsity in Applicant's October 2013 application directly affected the statutory analysis that DEA was required to make when it reviewed his application. 21 U.S.C. 823(g)(1), 824(a)(3). Thus, the falsity was material because it was "predictably capable of affecting . . . [DEA's] official decision" regarding whether Applicant met "the requirements for" registration. *Kungys*, 485 U.S. at 771.

In sum, the Agency finds clear, unequivocal, and convincing record evidence that Applicant's October 12, 2013 application for DEA registration, control number W13085169M, was materially false. 21 U.S.C. 824(a)(1); RFAAX 1, at 9-10.

January 2016 Application, Number W16005281M

The Agency finds the following based on clear, unequivocal, and convincing record evidence. On January 21, 2016, Applicant submitted an application for DEA registration, which was assigned control number W16005281M. RFAAX 1, at 10. Liability Question 2 asked, in part, whether Applicant has ever surrendered for cause a federal controlled substances registration. *Id*. Liability Question 3 asked whether Applicant had ever had any adverse action against a state professional license, to include revocation, suspension, probation, or denial. *Id*. at 11. Applicant answered "yes" to Liability Questions 2 and 3 and provided additional information to the follow-up prompts regarding date, location, nature, and result. *Id*. at 10-11.

Despite truthfully answering "yes," Applicant failed to disclose all the required information in response to Liability Question 3. Specifically, Applicant's follow-up responses failed to disclose that in July 2007 his West Virginia nursing license was suspended; in October

2008 his Florida nursing license was suspended; in 2012 his application for a physician assistant license was denied in North Dakota; and in January 2014, November 2014, January 2015, and November 2015, his Minnesota physician assistant license was suspended. *Id*. Accordingly, Applicant's response to Liability Question 3 was false because he knew or should have known information existed that the application clearly required be disclosed in response to Liability Question 3.[10] *Id*.

Additionally, Applicant's false answer was material. The CSA provides that suspension or lack of a state license is one basis by which the Attorney General may suspend, revoke, or deny a DEA registration, and therefore, it is a relevant statutory factor for determining whether issuance or maintenance of a registration is inconsistent with the CSA. 21 U.S.C. 823(g)(1), 824(a)(3); *Emed Medical Company LLC and Med Assist Pharmacy*, 88 Fed. Reg. at 21,720. Thus, whether an applicant has had a state license suspended or denied is a relevant factor DEA must consider when reviewing an application, and failure to disclose such information has "a natural tendency to influence the [Agency's] decision." *Kungys*, 485 U.S. at 771-72.

Accordingly, the falsity in Applicant's January 2016 application directly affected the statutory analysis that DEA was required to make when it reviewed his application. 21 U.S.C. 823(g)(1), 824(a)(3). Thus, the falsity was material because it was "predictably capable of affecting . . . [DEA's] official decision" regarding whether Applicant met "the requirements for" registration. *Kungys*, 485 U.S. at 771.

In sum, the Agency finds clear, unequivocal, and convincing record evidence that Applicant's January 21, 2016 application for DEA registration, control number W16005281M, was materially false. 21 U.S.C. 824(a)(1); RFAAX 1, at 10-11.

February 2020 Renewal Application, Registration Number MP4140478

[10] In response to Liability Question 2, Applicant noted that the Minnesota Board of Medical Practice investigated him after a positive urinalysis but determined that "treatment was not necessary." RFAAX 1, at 10. Applicant also noted that the Florida Professionals Resource Network "began monitoring [him]" and "mandate[d] treatment." *Id*. Although these responses indicate that he was investigated in Minnesota and monitored and required to undergo treatment in Florida, they fail to disclose, as Liability Question 3 required, that his nursing license was suspended in Florida in 2008 and his physician assistant license was suspended in Minnesota in 2014 and 2015. *Id*.

The Agency finds the following based on clear, unequivocal, and convincing record evidence. On February 11, 2020, Applicant submitted an application to renew DEA registration number MP4140478. RFAAX 1, at 12. Liability Question 3 asked whether Applicant had ever had any adverse action against a state professional license, to include revocation, suspension, probation, or denial. *Id*. Applicant answered "yes." *Id*.

Despite truthfully answering "yes," Applicant failed to disclose all the required information in response to Liability Question 3. In response to the application's request for the date of the incident that prompted the "yes" answer, Applicant stated, "February 11, 2020," the date he submitted the application. *Id*. In response to the application's request for the location, nature, and result of the incident, Applicant stated: "NOTHING NEW TO REPORT." *Id*. Applicant's response to Liability Question 3 was false because he continued to fail to disclose the incidents that made his January 21, 2016 application, control number W16005281M, false. *Id*. Specifically, Applicant failed to disclose that in July 2007 his West Virginia nursing license was suspended; in October 2008 his Florida nursing license was suspended; in 2012 his application for a physician assistant license was denied in North Dakota; and in January 2014, November 2014, January 2015, and November 2015, his Minnesota physician assistant license was suspended. *Id*. at 11-12. Accordingly, Applicant's response to Liability Question 3 was false because he knew or should have known information existed that the application required be disclosed in response to Liability Question 3. *Id*.

Additionally, Applicant's false answer was material. The CSA provides that suspension or lack of a state license is one basis by which the Attorney General may suspend, revoke, or deny a DEA registration, and therefore, it is a relevant statutory factor for determining whether issuance or maintenance of a registration is inconsistent with the CSA. 21 U.S.C. 823(g)(1), 824(a)(3); *Emed Medical Company LLC and Med Assist Pharmacy*, 88 Fed. Reg. at 21,720. Thus, whether an applicant has had a state license suspended or denied is a relevant factor DEA

must consider when reviewing an application, and failure to disclose such information has "a natural tendency to influence the [Agency's] decision." *Kungys*, 485 U.S. at 771-72.

Accordingly, the falsity directly affected the statutory analysis that DEA was required to make when it reviewed Applicant's application. 21 U.S.C. 823(g)(1), 824(a)(3). Further, the falsity was material because it was "predictably capable of affecting . . . [DEA's] official decision" regarding whether Applicant met "the requirements for" registration. *Kungys*, 485 U.S. at 771.

In sum, the Agency finds clear, unequivocal, and convincing record evidence that Applicant's February 11, 2020 application to renew DEA registration number MP4140478 was materially false. 21 U.S.C. 824(a)(1); RFAAX 1, at 12.

May 2023 Application, Number W23054133M

On May 2, 2023, Applicant submitted an application for DEA registration, which was assigned control number W23054133M. RFAAX 1, at 12. Liability Question 2 asked, in part, whether Applicant has ever surrendered for cause a federal controlled substances registration. *Id*. Applicant answered "yes." *Id*. In response to the application's follow-up prompts, Applicant provided a date, location, and description of events that most closely resembled circumstances relating to the surrender of DEA registration number MP4140478 in November 2021 in Minnesota. *Id*. at 4, 12.

Applicant, however, failed to disclose that he had previously surrendered two other DEA registrations in Minnesota. Specifically, he failed to disclose that on June 4, 2013, he surrendered for cause DEA registration number MP2562432, and on January 30, 2015, he surrendered for cause DEA registration number MP3221417. *Id*. at 3, 12-13. Although Applicant indicated that he "SURRENDERED [HIS] MN DEA REGISTRATION," the information he provided on the application related to the surrender of only one Minnesota DEA registration, when, in fact, he previously held two additional DEA registrations that he also surrendered. *Id*. at 12-13. Accordingly, Applicant's response to Liability Question 2 was false

because he knew or should have known information existed that the application required be disclosed in response to Liability Question 2. *Id*.

Liability Question 3 asked whether Applicant had ever had any adverse action against a state professional license, to include revocation, suspension, probation, or denial. *Id*. at 13. Applicant answered "yes." *Id*. In response to the application's follow-up prompts, Applicant disclosed information that most closely resembled circumstances relating to the suspension of his Minnesota physician assistant license in September 2021. *Id*.

Applicant, however, failed to disclose additional adverse actions against state licenses that he knew or should have known were required to be disclosed in response to Liability Question 3. Specifically, he failed to disclose that in 2007 his nursing license was suspended in West Virginia; in 2008 his nursing license was suspended in Florida; in 2012 his application for a physician assistant license was denied in North Dakota; and in January 2014, November 2014, January 2015, November 2015, and March 2023, his physician assistant license was suspended in Minnesota. *Id*. at 13-14. Although Applicant disclosed one suspension of his physician assistant license in Minnesota in 2021, he failed to disclose suspensions of his Minnesota physician assistant license in 2014, 2015, and 2023. *Id*. Accordingly, Applicant's response to Liability Question 3 was false because he knew or should have known information existed that the application required be disclosed in response to Liability Question 3. *Id*.

Additionally, Applicant's false answers to Liability Questions 2 and 3 were material. The CSA provides that suspension or lack of a state license is one basis by which the Attorney General may suspend, revoke, or deny a DEA registration, and therefore, it is a relevant statutory factor for determining whether issuance or maintenance of a registration is inconsistent with the CSA. 21 U.S.C. 823(g)(1), 824(a)(3); *Emed Medical Company LLC and Med Assist Pharmacy*, 88 Fed. Reg. at 21,720. Furthermore, a surrender for cause of a DEA registration implicates an applicant's or registrant's experience handling controlled substances and non-compliance with controlled substances laws, which are relevant considerations under Public Interest Factors B and

D. 21 U.S.C. 823(g)(1). Thus, whether an applicant has had a state license suspended, an application for licensure denied, and/or has surrendered a previous DEA registration are all relevant factors DEA must consider when reviewing an application, and failure to disclose such information has "a natural tendency to influence the [Agency's] decision." *Kungys*, 485 U.S. at 771-72.

Accordingly, the falsities directly affected the statutory analysis that DEA was required to make when it reviewed Applicant's application. 21 U.S.C. 823(g)(1), 824(a)(3). Further, the falsities were material because they were "predictably capable of affecting . . . [DEA's] official decision" regarding whether Applicant met "the requirements for" registration. *Kungys*, 485 U.S. at 771.

In sum, the Agency finds clear, unequivocal, and convincing record evidence that Applicant's May 2, 2023 application for DEA registration, control number W23054133M, was materially false. 21 U.S.C. 824(a)(1); RFAAX 1, at 12-13.

Further, although the instant OSC concerns whether Applicant's May 2023 application should be granted, the Agency's decision to deny this application may also be based on the material falsification of Applicant's January 2012, October 2013, January 2016, and February 2020 applications, because 21 U.S.C. 824(a)(1) provides that a registration may be revoked or denied based on the material falsification of "any application filed pursuant to or required by" the CSA. RFAAX 1, at 9-12.

B. Public Interest

Congress enacted the CSA "to conquer drug abuse and control the legitimate and illegitimate traffic in controlled substances." *Gonzales v. Raich*, 545 U.S. 1, 12 (2005). A particular concern of Congress was "the need to prevent the diversion of drugs from legitimate to illicit channels," and it "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." *Id.* at 12-13. To protect the American people and ensure compliance with the CSA,

Congress empowered the Agency[11] to deny, suspend, or revoke a registration if it would be inconsistent with the public interest. 21 U.S.C. 823(g)(1); 21 U.S.C. 824(a)(4); *Gonzales v. Oregon*, 546 U.S. 243, 251 (2006).

In determining whether Applicant's proposed registration is inconsistent with the public interest, the Agency analyzes five statutorily established "public interest factors." *Gonzales v. Oregon*, 546 U.S. at 251; 21 U.S.C. 823(g)(1)(A)-(E). 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).

These five public interest factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. at 292-93; *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, *Gillis*, 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 v. Drug Enf't Admin.*, 412 F.3d 165, 185 n.2 (D.C. Cir. 2005) (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).

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)

[11] The CSA grants this authority to the Attorney General, who has delegated it to the Administrator of DEA (the Agency). 28 CFR 0.100.

(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 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 Eleventh Circuit has recognized, Agency decisions have explained that findings under a single factor can support the denial of an application for registration. *Jones Total Health Care Pharmacy*, 881 F.3d at 830; *Pharmacy Doctor Enterprises, Inc. v. Drug Enf't Admin.*, 789 Fed. Appx. 724, 729 (11th Cir. 2019).

In this matter, the Government's evidence is confined to Factors B, D, and E. RFAA, at 4; RFAAX 1, at 4. Evidence is considered under Factors B and D when it reflects experience dispensing controlled substances and compliance or non-compliance with laws related to controlled substances. *Kareem Hubbard, M.D.*, 87 Fed. Reg. 21,156, 21,162 (2022). Evidence is considered under Factor E when it constitutes "[s]uch other conduct which may threaten the public health and safety." 21 U.S.C. 823(g)(1)(E). To determine whether Applicant's registration is in the public interest, the Agency will evaluate the Government's allegations that Applicant has diverted controlled substances by issuing illegitimate prescriptions for the purpose of obtaining pills for personal use and that Applicant has a lengthy history of abusing controlled substances.[12]

The Government has the burden of proof in this proceeding and the Agency must make its public interest findings based on substantial record evidence. 5 U.S.C. 556(d); 5 U.S.C. 706(2)(E); 21 U.S.C. 877; 21 CFR 1301.44(d). If the Government meets its burden of establishing a *prima facie* case that granting Applicant's registration application is not in the

[12] Due to the numerous and egregious public interest violations established in excess of substantial record evidence, the Agency need not address the remaining public interest violations alleged in the OSC.

public interest, then the burden shifts to Applicant to rebut the Government's case. *Pharmacy Doctor Enterprises*, 789 Fed. Appx. at 729 (citing *Jones Total Health Care Pharmacy*, 881 F.3d at 830). Here, the Agency finds that the Government's record evidence presents a *prima facie* case that Applicant's registration would be inconsistent with the public interest. 21 U.S.C. 824(a)(4).

Public Interest Factors B and D: Diversion

A lawful controlled substance order or prescription is one that is "issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 CFR 1306.04(a); RFAAX 1, at 2. Therefore, "a physician who engages in the unauthorized practice of medicine is not a practitioner acting in the usual course of professional practice." *United Prescription Servs., Inc.*, 72 Fed. Reg. 50,397, 50,407 (2007).

Further, a registrant acts outside the usual course of professional practice and in a manner inconsistent with the public interest when he or she issues controlled substance prescriptions to individuals for the purpose of receiving some of the pills in return. *See Michael E. Smith, D.V.M.*, 87 Fed. Reg. 4,944, 4,950-51 (2022) (finding registrant violated 21 CFR 1306.04(a) and his registration was inconsistent with the public interest where he issued fraudulent prescriptions for controlled substances in order to obtain the drugs for personal use); *Roger A. Pellmann, M.D.*, 76 Fed. Reg. 17,704, 17,709 (2011) (registrant violated federal law by obtaining controlled substances for "office use," when he, in fact, was diverting the drugs to another individual and himself); *Steven B. Brown, M.D.*, 75 Fed. Reg. 65,660, 65,662 (2010) (finding registrant violated 21 CFR 1306.04(a) by issuing controlled substance prescriptions in exchange for the individual to provide the registrant with half of the pills); *Randall Relyea, D.O.*, 73 Fed. Reg. 40,378, 40,380 (2008) (finding registrant's registration to be inconsistent with the public interest where he issued controlled substance prescriptions to individuals with no medical need and instructed them to give the drugs to him).

Here, Applicant admits that around April and May 2013, he issued two prescriptions for carisoprodol in order to obtain some of the pills for personal use. RFAAX 1, at 6. Accordingly, the undisputed record evidence establishes, and the Agency finds, that Applicant has issued controlled substance prescriptions outside the usual course of professional practice and not for legitimate medical purposes in violation of 21 CFR 1306.04(a). *See also Smith*, 87 Fed. Reg. at 4,950-51; *Pellmann*, 76 Fed. Reg. at 17,709; *Brown*, 75 Fed. Reg. at 65,662; *Relyea*, 73 Fed. Reg. at 40,380.

Further, the Agency finds that this misconduct reflects poorly on Applicant's experience handling controlled substances and demonstrates non-compliance with Federal law governing controlled substances. 21 U.S.C. 823(g)(1)(B), (D). Accordingly, the Agency finds substantial record evidence that Applicant's registration would be inconsistent with the public interest. 21 U.S.C. 824(a)(4).

Public Interest Factor E: Substance Abuse

Past DEA decisions have consistently held that "registrants who self-abuse controlled substances may endanger public health and safety," and that such misconduct may be considered under Factor E. *See Brewster Drug, Inc.*, 85 Fed. Reg. 19,020, 19,026 (2020) (collecting cases).

Here, Applicant's admissions establish that Applicant has a long history of abusing controlled substances. Specifically, in 2007 Applicant was addicted to zolpidem and underwent treatment at a chemical addiction recovery program. RFAAX 1, at 4. In addition, in 2013 Applicant was abusing carisoprodol and was in a chemical addiction recovery program. *Id*. at 6. Further, despite being in treatment for addiction to carisoprodol, Applicant ordered carisoprodol tablets through the Internet not for a legitimate medical purpose and not within the usual course of his professional practice. *Id*. On two occasions in 2014, Applicant tested positive for carisoprodol when he did not have a prescription for carisoprodol. *Id*. at 7. In November 2020, Applicant stole propofol from an operating room for personal use. *Id*. at 8. In 2015 and 2021, Applicant was subject to orders issued by the Minnesota Board of Medical Practice that, among

other things, required Applicant to undergo treatment for chemical dependency, attend self-help program meetings, undergo random drug testing, and demonstrate sobriety. *Id*. at 7-8.

In sum, the Agency finds substantial record evidence that Applicant has abused a variety of controlled substances over a period of many years and continued to do so even after he had been monitored and required to undergo treatment for substance abuse. *Id*. at 4, 6-8. The Agency finds that this lengthy history of substance abuse constitutes "other conduct which may threaten the public health and safety." 21 U.S.C. 823(g)(1)(E); *Brewster Drug, Inc.*, 85 Fed. Reg. at 19,026. Accordingly, the Agency finds substantial record evidence that Applicant's registration would be inconsistent with the public interest. 21 U.S.C. 824(a)(4).

IV. SANCTION

The Agency has found by clear, unequivocal, and convincing record evidence that Applicant submitted five materially false applications for DEA registration and substantial record evidence that his registration would be inconsistent with the public interest due to having committed acts of diversion and demonstrating a lengthy history of substance abuse. 21 U.S.C. 823(g)(1)(B), (D), (E); 21 U.S.C. 824(a)(1), (4). When the Government establishes a *prima facie* case for sanction, as it did here, the Agency then determines the appropriate sanction, which may include denial of an application for registration. 21 U.S.C. 823(g)(1); s*ee also Pharmacy Doctors Enterprises*, 789 Fed. Appx. at 734 (the Agency is entitled to choose a sanction); *Jeffrey Stein, M.D.*, 84 Fed. Reg. 46,968, 46,972-73 (2019); *Scott Hansen, A.R.N.P.*, 90 Fed. Reg. 27,338, 27,341 (2025).

At this stage, the burden is on Applicant 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). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the

individual. *Stein*, 84 Fed. Reg. at 46,972; *see also Jones Total Health Care Pharmacy*, 881 F.3d at 833.

As past performance is the best predictor of future performance, the Agency requires that an applicant who has committed acts inconsistent with the public interest accept responsibility for those acts and demonstrate that they 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). Moreover, the Agency requires an applicant'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. The Agency also considers the need to deter similar acts by the applicant and by the community of registrants. *Stein*, 84 Fed. Reg. at 46,972-73.

Here, Applicant failed to request a hearing and answer the allegations contained in the OSC, and did not otherwise avail himself of the opportunity to prove to the Agency that he can be entrusted with a registration. *See supra* Section I. Thus, there is no record evidence that Applicant takes responsibility, let alone unequivocal responsibility, for the misconduct proven by record evidence. Accordingly, he has not convinced the Agency that he can be entrusted with the responsibilities of a registration.

Further, the interests of specific and general deterrence weigh in favor of denial. Applicant's misconduct in this matter concerns the submission of registration applications that contained material falsities, improper prescribing for the purpose of obtaining controlled substances for personal abuse, and a lengthy history of abusing controlled substances. Thus, the proven misconduct goes to the heart of the CSA's "strict requirements regarding registration" and its "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 Applicant under these circumstances, it

would send a dangerous message that compliance with the law is not essential to obtaining a registration.

In sum, Applicant has not offered any credible evidence on the record that rebuts the Government's case for denial of his application, and Applicant has not demonstrated that he can be entrusted with the responsibility of a DEA registration. Accordingly, the Agency will order the denial of Applicant'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. W23054133M, submitted by David S. Pecora, P.A., as well as any other pending application of David S. Pecora, P.A., for registration in Minnesota. 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 October 1, 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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