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DEPARTMENT OF JUSTICE
Drug Enforcement Administration

Mark Huff, M.D.; Decision and Order

On May 4, 2025, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Mark Huff, M.D., of Murray, Utah (Respondent). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 5. The OSC proposed the revocation of Respondent's DEA Certificate of Registration (COR) No. FH6657716, alleging that Respondent has committed acts that are inconsistent with the public interest. *Id*. at 1 (citing 21 U.S.C. 823(g)(1); 824(a)(4)).

Specifically, the OSC alleged that during interactions with DEA investigators in 2024, Respondent repeatedly exhibited a lack of candor regarding his 2022 fentanyl abuse, subsequent treatment, and reasons for seeing a doctor, which is conduct that DEA may consider under 21 USC 823(g)(1)(E) because it may threaten public health and safety. *Id*. at 2-3 (citing *George R. Smith, M.D.*, 78 Fed. Reg. 44,972, 44,979 (2013) (observing that under Factor Five, "the DEA has consistently held that "[c]andor during DEA investigations, regardless of the severity of the violations alleged, is considered by the DEA to be an important factor when assessing whether a . . . registration is consistent with the public interest.'").[1]

On June 6, 2025, Respondent requested a hearing. RFAA, at 1; *see also* RFAAX 4, at 1; RFAAX 5, at 1. On June 9, 2025, Chief Administrative Law Judge John J. Mulrooney, II (the Chief ALJ) issued an Order for Prehearing Statements, which included detailed instructions for the submission of each party's prehearing statement. RFAA, at 1-2; *see also* RFAAX 4. On July 8, 2025, the Chief ALJ issued an Order Terminating Hearing Proceedings on the basis that

[1] The OSC further alleged that on his application for a Georgia physician's license, Respondent gave false responses to questions regarding a previously surrendered controlled substance license. *Id*. at 3-4. The Agency need not address this allegation because there is substantial other evidence that Respondent's registration is inconsistent with the public interest.

Respondent's prehearing statements were "wholly unsatisfactory."[2] RFAA, at 2; *see also* RFAAX 5.

On August 20, 2025, the Government submitted its RFAA requesting that the Agency issue a final order revoking Respondent's registration. RFAA, at 8. 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 revokes Respondent's registration because Respondent's continued registration is inconsistent with the public interest.

I. APPLICABLE LAW

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

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

Id. at 12-14.

The OSC's allegations concern the CSA's "statutory and regulatory provisions mandating registration with the DEA" and, therefore, go to the heart of the CSA's "closed regulatory system" specifically designed "to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances," and "to prevent the diversion of drugs from legitimate to illicit channels." *Id*. at 12-14, 27.

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[2] The ALJ's termination of proceedings on this basis was a reasonable exercise of discretion. *See* 5 U.S.C. 556(c) (granting the ALJ power to "regulate the course of the hearing" and "dispose of procedural requests or similar matters"); *see also Robert L. Carter, D.D.S.,* 90 Fed. Reg. 9631, 9632 (2025) (finding that the ALJ "acted within his authority" and "did not error in using his discretion to find that Respondent's failure to file a compliant prehearing statement amounted to an implied waiver of his hearing request"); *David H. Betat, M.D.*, 87 Fed. Reg. 21,175, 21,176, 21,180 (2022) (deferring to the ALJ's finding that the registrant waived his right to a hearing by failing to respond to the ALJ's orders); *Care Point Pharmacy, Inc.,* 86 Fed. Reg. 40,621, 40,621 n.3 (2021) ("Agency precedent is clear that the unwillingness or inability of a party to comply with the directives of the [ALJ] may support an implied waiver of that party's right to a hearing.") (internal quotations removed and collecting cases).

II. FINDINGS OF FACT

The Agency finds substantial record evidence for the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA dated August 20, 2025.

Respondent was previously registered with DEA under DEA COR BH9335351. RFAAX 3, at 2. On November 25, 2013, Respondent signed a DEA Form-104 voluntarily surrendering this previous registration for cause. *Id.*; *see also id*., Attachment B. Respondent is currently registered with DEA under DEA COR No. FH6657716, with a registered address in Utah. RFAAX 3, Attachment A, at 1-2.

On January 8, 2024, Respondent requested to modify the address of DEA COR No. FH6657716 to an address in Georgia. RFAAX 3, at 1. Respondent's request was placed under review due to the prior suspension of Respondent's Utah medical license and Respondent's surrender of his prior DEA COR BH9335351. *Id*. at 1-2. Review of the prior suspension of Respondent's Utah medical license uncovered that in 2011, Respondent had entered into a diversion agreement with the Utah Division of Occupational and Professional Licensing (DOPL) due to fentanyl[3] use. RFAAX 3, at 2. In 2013, Respondent's Utah medical license was suspended due to his failure to comply with the 2011 diversion agreement. *Id*. Further, Respondent's surrender of his prior DEA COR BH9335351 was due to the state suspension. *Id*.

On January 29, 2024, during a phone call with DEA, Respondent stated that in 2013, due to fentanyl abuse, he was placed on probation and underwent intensive outpatient treatment, but since 2013, he had not received any other treatment. *Id*. at 3. Review of Prescription Drug Monitoring Program (PDMP) data pertaining to Respondent from Utah's Controlled Substance Database uncovered that from approximately March 2022 to July 2022, Respondent received six prescriptions for Suboxone.[4] RFAAX 3, at 2-3; *see also id*., Attachment D, Attachment F.

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[3] Fentanyl is a Schedule II opioid. 21 CFR 1308.12(c)(9).

[4] Suboxone is a brand name for the combination of buprenorphine (a Schedule III narcotic) and naloxone. 21 CFR 1308.13(e)(2)(i).

On February 2, 2024, during another phone call with DEA in which Respondent was asked about the above conflicting information, Respondent stated that he had decided to visit Dr. M.C., who prescribed him Suboxone, because his wife had been falsely accusing him of taking narcotics and he wanted to appease her. RFAAX 3, at 3. Respondent also stated that during the January 29, 2024 interview, he had answered "no" regarding any drug abuse treatment since 2013 because he had thought the question referred to intensive outpatient treatment (like his 2013 treatment). *Id*.

On March 12, 2024, during an in-person interview with DEA, Respondent stated that he had contacted Dr. M.C. on recommendation from his former mentor and sponsor, and he was prescribed Suboxone to prevent a relapse and for stress. *Id*. at 3-4. Respondent stated that taking the Suboxone was a protective mechanism and that he thought he could tolerate Suboxone without being on narcotics. *Id*. at 4. When asked about his February 2, 2024 statement that he had taken the Suboxone to appease his wife, Respondent stated that that was also part of the reason. *Id*.

Subsequent review of Respondent's medical records uncovered that in January 2022, Respondent relapsed and began abusing fentanyl. *Id*.; *see also id*., Attachment H, at 1, 2, 4. After discontinuing fentanyl, Respondent experienced withdrawal symptoms and tried non-controlled propofol, but it did not work for him. RFAAX 3, at 4; *see also id*., Attachment H, at 2. On March 7, 2022, Respondent was diagnosed by Dr. M.C. with "[s]evere opioid use disorder." RFAAX 3, at 5; *see also id.*, Attachment H, at 1. From March 2022 through July 2022, Respondent received six prescriptions for Suboxone, with the July prescription issued by a second doctor, Dr. S.H. *See* RFAAX 3, Attachments D, F, H, J.[5] Respondent's records continually described Respondent's diagnosis and treatment as "opioid use disorder" and "on maintenance therapy," respectively. RFAAX 3, at 5; *see also id.*, Attachment H-J.

[5] The documentation regarding Respondent's visit to Dr. H. was not included with the documentation provided by Respondent to DEA. RFAAX 3, at 5.

On October 22, 2024, DEA interviewed Respondent a fourth time, in person. RFAAX 3, at 6. When asked about the multiple indications of a fentanyl relapse in his medical records, Respondent maintained that he had received Suboxone as a preventative measure and not because he had had a relapse. *Id*. Further, Respondent again stated that he had misunderstood the January 29, 2024 question about drug abuse treatment because he had thought the question referred to "'participation in a program.'" *Id*.

Accordingly, the Agency finds substantial record evidence that during his interactions with DEA in 2024, Respondent consistently showed a lack of candor regarding his 2022 fentanyl abuse, subsequent treatment, and reasons for seeing a doctor.

III. 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 (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).[6]

The five factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. at 292-93 (Scalia, J., dissenting) ("It is well established that these factors are to be considered in the disjunctive," (quoting *In re Arora*, 60 Fed. Reg. 4,447, 4,448 (1995))); *Robert A. Leslie, M.D.*, 68 Fed. Reg. 15,227, 15,230 (2003). Each factor is weighed on a case-by-case basis. *David H.*

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[6] The five factors are:

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

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

Gillis, M.D., 58 Fed. Reg. 37,507, 37,508 (1993). Any one factor, or combination of factors, may be decisive, *David H. Gillis, M.D.*, 58 Fed. Reg. at 37,508, and the Agency "may give each factor the weight . . . deem[ed] appropriate in determining whether a registration should be revoked or an application for registration denied." *Morall 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).

Moreover, while the Agency is required to consider each of the factors, it "need not make explicit findings as to each one." *MacKay v. Drug Enf't Admin.*, 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman v. U. S. Drug Enf't Admin.*, 567 F.3d 215, 222 (6th Cir. 2009)); *Jones Total Health Care Pharmacy, LLC v. Drug Enf't Admin.*, 881 F.3d 823, 830 (11th Cir. 2018); *Hoxie v. Drug Enf't Admin.*, 419 F.3d 477, 482 (6th Cir. 2005). "In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct." *Jayam Krishna-Iyer, M.D.*, 74 Fed. Reg. 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, Agency decisions have explained that findings under a single factor can support the revocation of a registration. *MacKay*, 664 F.3d at 821.

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

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),[7] the Agency finds that the Government's evidence in support of its *prima facie* case is confined to Factor E. RFAA, at 4-7.

[7] As to Factor A, the record contains no evidence of a recommendation from any State licensing board or professional disciplinary authority. 21 U.S.C. 823(g)(1)(A). Nonetheless, an absence of such evidence "does not weigh for or against a determination as to whether continuation of [or granting of a] DEA certification is consistent with the public interest." *Roni Dreszer, M.D.*, 76 Fed. Reg. 19,434, 19,444 (2011). As to Factors B and D, evidence is considered under these two factors 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

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). The Agency has consistently found that a lack of candor is proper to consider under Factor E as something that threatens public health and safety. *OakmontScript Limited Partnership*, 87 Fed. Reg. 21,516, 21,532-33 (2022) (citing *John V. Scalera*, 78 Fed. Reg. 12,092, 12,093, 12,100 (2013); *Jeri Hassman, M.D.*, 75 Fed. Reg. 8,194, 8,236 (2010)); *see also Annicol Marrocco, M.D.*, 80 Fed. Reg. 28,695, 28,705 (2015); *Alan H. Olefsky, M.D.*, 76 Fed. Reg. 20,025, 20,031 (2011) ("Because of the authority conveyed by a registration and the extraordinary potential for harm caused by those who misuse their registrations, DEA places significant weight on an applicant/registrant's candor in the proceeding.").

Here, as found above, the Agency finds that during his interactions with DEA in 2024, Respondent consistently showed a lack of candor regarding his 2022 fentanyl abuse, subsequent treatment, and reasons for seeing a doctor. *See supra* II. The Agency therefore finds that Factor E weighs towards a finding that Respondent's registration is inconsistent with the public interest.

In sum, the Agency finds that after considering the factors of 21 U.S.C. 823(g)(1), Respondent's continued registration is "inconsistent with the public interest." 21 U.S.C. 824(a)(4). Accordingly, the Government satisfied its *prima facie* burden of showing that Respondent's continued registration would be "inconsistent with the public interest." *Id*. The Agency also finds that Respondent has presented no mitigating evidence to rebut the Government's *prima facie* case. Thus, the only remaining issue is whether, in spite of Respondent's misconduct, Respondent can be trusted with a registration.

IV. SANCTION

(2022). Here, there is no evidence in the record reflecting Respondent's experience dispensing controlled substances nor evidence in the record reflecting Respondent's compliance or non-compliance with laws related to controlled substances. 21 U.S.C. 823(g)(1)(B), (D). As to Factor C, there is no evidence in the record that Respondent has been convicted of an offense under either Federal or State law "relating to the manufacture, distribution, or dispensing of controlled substances." 21 U.S.C. 823(g)(1)(C). However, as Agency cases have noted, "the absence of such a conviction is of considerably less consequence in the public interest inquiry" and is therefore not dispositive. *Dewey C. MacKay, M.D.*, 75 Fed. Reg. 49,956, 49,973 (2010).

Where, as here, the Government has met the burden of showing that Respondent's registration is inconsistent with the public interest, the burden shifts to Respondent to show why he can be entrusted with a registration. *Morall*, 412 F.3d. at 174; *Jones Total Health Care Pharmacy*, 881 F.3d at 830; *Garrett Howard Smith, M.D.*, 83 Fed. Reg. 18,882, 18,904 (2018).

The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.*, 84 Fed. Reg. 46,968, 46,972 (2019); *see also Jones Total Health Care Pharmacy*, 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, the Agency requires that a registrant who has committed acts inconsistent with the public interest accept responsibility for those acts and demonstrate that he 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 has been 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 registrant and by the community of registrants. *Jeffrey Stein, M.D.*, 84 Fed. Reg. at 46,972-73.

Here, although Respondent initially requested a hearing, the proceedings were terminated in the prehearing stage on the basis that Respondent's prehearing statements were "wholly unsatisfactory." *See* RFAA, at 1-2; RFAAX 4-5. Moreover, Respondent did not otherwise avail himself of the opportunity to refute the Government's case. As such, Respondent has not accepted responsibility for the proven violations, has made no representations regarding his

future compliance with the CSA, and has not demonstrated that he can be entrusted with registration.

Accordingly, the Agency will order the revocation of Respondent's registration.

ORDER

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificate of Registration No. FH6657716 issued to Mark Huff, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Mark Huff, M.D., to renew or modify this registration, as well as any other pending application of Mark Huff, M.D., for additional registration in Utah. 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 January 6, 2026, by Administrator Terrance C. 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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