No. 26-____

IN THE

Supreme Court of the United States

HAROON I. HAMEED, M.D.,

Petitioner,

v.

DRUG ENFORCEMENT ADMINISTRATION, *et al.*,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

PETITION FOR A WRIT OF CERTIORARI

JORGE LUIS VASQUEZ, JR.
Counsel of Record
VASQUEZ ATTORNEYS AT LAW, P.C.
141 Parkway Road, Suite 14
Bronxville, NY 10708
(212) 752-8408
jorge@vasquezpc.com

Counsel for Petitioner

October 23, 2026

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D.C. 20002

QUESTION PRESENTED

The Controlled Substances Act provides that upon review of a registrant's corrective action plan, the Attorney General "shall determine whether denial, revocation, or suspension proceedings should be discontinued, or deferred for the purposes of modification, amendment, or clarification to such plan." 21 U.S.C. § 824(c)(3).

In this case, the agency's own order to show cause advised petitioner that a decision on his plan by the Diversion Control Division "is not a final determination by the agency regarding your corrective action plan or your registration," and that the Administrator "may nonetheless consider the corrective action plan in issuing the final order at the conclusion of the proceedings." The Division's responsive letter likewise described itself as a "limited, preliminary determination" and stated that "[t]he Administrator will issue the final Agency adjudication in this case." Three years and four months later, the Administrator's final order recited the letter's existence in a single sentence and did not return to the plan. The court of appeals held in an unpublished judgment that petitioner had not demonstrated that anything further was required.

The question presented is:

Whether 21 U.S.C. § 824(c)(3), which provides that the Attorney General "shall determine" whether proceedings should be discontinued or deferred upon review of a registrant's corrective action plan, is satisfied by a letter from a Division official that the agency itself described as a "limited, preliminary determination" and that the final order under review neither adopted nor addressed.

PARTIES TO THE PROCEEDING

Petitioner is Haroon I. Hameed, M.D., petitioner below. Respondents are the Drug Enforcement Administration and Terrance Cole, Administrator, respondents below. Petitioner is an individual; no corporate disclosure statement is required under Rule 29.6.

STATEMENT OF RELATED PROCEEDINGS

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii):

Hameed v. Drug Enforcement Administration, No. 25-1192 (D.C. Cir.) (judgment entered July 16, 2026; rehearing denied August 18, 2026) — the proceeding below.

Hameed v. Milgram, No. 1:25-cv-01588-DLF (D.D.C.) (filed May 19, 2025; dismissed without prejudice Sept. 29, 2026, as moot and as within 21 U.S.C. § 877's exclusive review scheme) — action concerning the agency's delay in the administrative proceeding underlying this case.

Hameed v. United States Department of Health & Human Services, No. 1:25-cv-04117-DLF (D.D.C.) (filed Nov. 24, 2025; dismissed without prejudice Sept. 29, 2026, for failure to exhaust administrative remedies under 42 U.S.C. § 405(h)), and *Hameed v. Centers for Medicare & Medicaid Services*, Docket No. A-26-47 (HHS Departmental Appeals Board) (pending) — proceedings concerning Medicare enrollment action predicated on the order under review.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDING	ii
STATEMENT OF RELATED PROCEEDINGS.	ii
TABLE OF AUTHORITIES	v
OPINIONS BELOW	1
JURISDICTION	1
STATUTORY AND REGULATORY PROVISIONS INVOLVED	1
INTRODUCTION	1
STATEMENT OF THE CASE	3
A. Statutory framework	3
B. The administrative proceeding	4
C. Proceedings below	6
REASONS FOR GRANTING THE PETITION..	8
I. THE COURT SHOULD RESOLVE WHETHER § 824(c)(3)'S MANDATORY DETERMINATION MAY BE DISCHARGED BY A DECISION THE AGENCY ITSELF TWICE DISCLAIMED AS NON-FINAL	8
A. Congress made the corrective-action-plan determination a mandatory step	8
B. No final determination was made — by the agency's own account	9
C. The violation was consequential	12

TABLE OF CONTENTS—Continued

Page

D. The question is important, recurring, and unresolved 14

II. THIS CASE IS AN EXCEPTIONALLY CLEAN VEHICLE 17

CONCLUSION 19

APPENDIX

TABLE OF AUTHORITIES

CASES Page(s)

Anderson v. Yungkau,
329 U.S. 482 (1947) 8

Ashraf v. DEA,
153 F.4th 1161 (11th Cir. 2025) 11, 16

Burlington Truck Lines, Inc. v. United States,
371 U.S. 156 (1962) 12

Kingdomware Techs., Inc. v. United States,
579 U.S. 162 (2016) 8

Loper Bright Enters. v. Raimondo,
603 U.S. 369 (2024) 16

Ohio v. EPA,
603 U.S. 279 (2024) 12

Plumley v. Austin,
574 U.S. 1127 (2015) 18

SEC v. Chenery Corp.,
318 U.S. 80 (1943) 12, 14

Shinseki v. Sanders,
556 U.S. 396 (2009) 14

Yee v. City of Escondido,
503 U.S. 519 (1992) 17

CONSTITUTION

U.S. Const. amend. V 17

STATUTES

5 U.S.C. § 555 1

5 U.S.C. § 555(e) 12

TABLE OF AUTHORITIES—Continued

	Page(s)
5 U.S.C. § 706	1, 14
21 U.S.C. § 822	3
21 U.S.C. § 823	1
21 U.S.C. § 823(f)	3
21 U.S.C. § 823(g)(1)	3
21 U.S.C. § 824	1, 8
21 U.S.C. § 824(a)	9
21 U.S.C. § 824(a)(4)	3
21 U.S.C. § 824(c)	1, 7
21 U.S.C. § 824(c)(1)	3
21 U.S.C. § 824(c)(2)(A)	3
21 U.S.C. § 824(c)(2)(C)	4, 8, 18
21 U.S.C. § 824(c)(3)	1, 4, 6, 8-16, 18
21 U.S.C. § 824(c)(5)	2
21 U.S.C. § 824(d)	2
21 U.S.C. § 877	15, 18
28 U.S.C. § 1254(1)	1
Ensuring Patient Access and Effective Drug Enforcement Act of 2016, Pub. L. No. 114-145, § 2(b), 130 Stat. 353, 354-55	4
21 C.F.R. § 1301.36(e)	2
21 C.F.R. § 1301.43 (2022)	1, 5
28 C.F.R. § 0.100(b)	3

TABLE OF AUTHORITIES—Continued

RULES

Page(s)

Sup. Ct. R. 10 17

Sup. Ct. R. 10(c) 18

Sup. Ct. R. 13.1 1

Sup. Ct. R. 13.3 1

OTHER AUTHORITIES

90 Fed. Reg. 45,251 (Sept. 19, 2025) 1, 6, 7, 10-14, 16

Ajay S. Ahuja, M.D., 84 Fed. Reg. 5,479 (2019) 16

Drug Enforcement Admin., Diversion Control Div., *Registrant Population — Summary* (cycle 08-2026), https://apps.deadiversion.usdoj.gov/RAPR/raprRegistrantPopulationSummary.xhtml (last visited Sept. 8, 2026) 15

H.R. Rep. No. 114-85 (2015) 8

Hollywood Med. Rehab. Care, Inc., 90 Fed. Reg. 47,827 (2025) 16

John Qian, M.D., 89 Fed. Reg. 59,934 (2024) 16

Ljudmil Kljusev, M.D., 83 Fed. Reg. 30,974 (2018) 16

Salvatore Cavaliere, D.O., 85 Fed. Reg. 45,657 (2020) 16

Sohail Mamdani, M.D., 88 Fed. Reg. 1,099 (2023) 16

TABLE OF AUTHORITIES—Continued

Page(s)

Sualeh Ashraf, M.D., 88 Fed. Reg. 1,095 (2023)..... 16

Yoon H. Choi, M.D., 82 Fed. Reg. 49,663 (2017)..... 16

OPINIONS BELOW

The judgment of the court of appeals (App., *infra*, 1a–4a) is unreported. The order denying panel rehearing (App., *infra*, 5a) is unreported. The final order of the Drug Enforcement Administration (App., *infra*, 6a) is published at 90 Fed. Reg. 45,251 (Sept. 19, 2025).

JURISDICTION

The court of appeals entered judgment on July 16, 2026, and denied a timely petition for panel rehearing on August 18, 2026. App., *infra*, 1a, 5a. This Court's jurisdiction rests on 28 U.S.C. § 1254(1). The petition is timely under Rules 13.1 and 13.3 of this Court.

STATUTORY AND REGULATORY PROVISIONS INVOLVED

Relevant provisions of 21 U.S.C. §§ 823, 824, 5 U.S.C. §§ 555, 706, and 21 C.F.R. § 1301.43 (2022) are reproduced at App., infra, 49a.

INTRODUCTION

In 2016 Congress added a protection to every DEA enforcement proceeding commenced by order to show cause: if the registrant submits a corrective action plan, the Attorney General "shall determine" whether the proceeding should be discontinued, or deferred so the plan can be modified, amended, or clarified. 21 U.S.C. § 824(c)(3). The provision guarantees that a registrant's proposed remediation receives an actual determination — within a scheme that makes deferral-for-modification an available pathway — before the agency proceeds to final action.[1]

---

[1] Subsection (c)'s requirements do not apply to the issuance of an immediate suspension order upon a finding of imminent

In this case that protection failed. Petitioner, a Johns Hopkins-trained pain physician, answered a charging document that alleged historical conduct he had admitted, and falsification allegations the Administrator ultimately did not sustain. In reliance on those charges he waived his hearing, accepted responsibility in writing, and proposed as his corrective action plan the intensive monitoring regime he was then completing — expressly inviting modification and asking that proceedings be deferred while it was discussed. The agency's response came from a Division official whose letter denied the request while describing itself as a "limited, preliminary determination" and stating that "[t]he Administrator will issue the final Agency adjudication in this case." The agency's own charging document had said the same thing: a Division decision "is not a final determination by the agency regarding your corrective action plan or your registration."

The final adjudication both documents pointed to never took the plan up. Three years and four months later, the Administrator's order mentioned the plan once — noting it had been "denied by letter" — and revoked petitioner's registration in part because he had not explained his plan to remain sober after his state probation ended. That ground is the one the statutory modification process existed to address, in 2022, when petitioner invoked it.

The court of appeals resolved this in an unpublished judgment concluding that DEA "reviewed his proposal and responded by letter" and that petitioner "does not

---

danger, 21 U.S.C. § 824(c)(5), (d), though such orders issue in conjunction with an order to show cause, *see* 21 C.F.R. § 1301.36(e). The agency did not invoke that authority here.

demonstrate that anything further was required." If that is correct, then a mandatory statutory determination is satisfied by correspondence the agency itself twice disclaimed as non-final — for the approximately 2.2 million registrants the statute governs, in a review structure that has produced no authoritative resolution of the question. The question is important, it is cleanly presented on undisputed documents, and it warrants this Court's review.

STATEMENT OF THE CASE

A. Statutory framework

The Controlled Substances Act conditions the dispensing of controlled substances on registration with the Attorney General. 21 U.S.C. § 822. A practitioner's registration may be suspended or revoked upon a finding that the registrant "has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section." 21 U.S.C. § 824(a)(4). Section 823(g)(1) directs consideration of five enumerated public-interest factors.[2]

Before revoking a registration, the agency must serve an order to show cause containing "a statement of the basis" for the proposed action. 21 U.S.C. § 824(c)(1), (2)(A).[3] In 2016, Congress added two further requirements. The order to show cause must

---

[2] Because the record documents predate the 2022 redesignation, they cite the practitioner public-interest factors as former § 823(f), now § 823(g)(1). This petition uses the current designation except in quotations.

[3] The Controlled Substances Act vests these functions in the Attorney General, who has delegated them to the Administrator of the Drug Enforcement Administration. 28 C.F.R. § 0.100(b). This petition refers to the agency's actions accordingly.

notify the registrant of the opportunity to submit a corrective action plan. Id. § 824(c)(2)(C); Ensuring Patient Access and Effective Drug Enforcement Act of 2016, Pub. L. No. 114-145, § 2(b), 130 Stat. 353, 354–55. And "[u]pon review of any corrective action plan," the Attorney General "shall determine whether denial, revocation, or suspension proceedings should be discontinued, or deferred for the purposes of modification, amendment, or clarification to such plan." Id. § 824(c)(3).

B. The administrative proceeding

Petitioner is a fellowship-trained interventional pain physician. The agency's findings concern petitioner's abuse of prescribed controlled substances and alcohol, and instances of practicing while impaired, during 2019–2020. Petitioner does not ask this Court to reweigh those findings; the question presented concerns the procedures governing the agency's consideration of his corrective-action proposal. The Maryland State Board of Physicians summarily suspended petitioner's medical license in November 2020. Following inpatient and outpatient treatment and his enrollment in the Maryland Professional Rehabilitation Program (MPRP), the Board reinstated his license in November 2021, subject to probation and continuous monitoring. CR 000075-000078.

On March 25, 2022, DEA issued an order to show cause proposing revocation of petitioner's registration. CR 000037–41. The order rested on the 2019–2020 conduct and the Board proceedings, and separately alleged material falsification of petitioner's October 2021 renewal application. It advised petitioner of his right to submit a corrective action plan to the Deputy Assistant Administrator of the Diversion Control Division, "who will decide whether … the proceedings to revoke your registration should be discontinued, or

deferred for the purposes of modification, amendment, or clarification of such plan." It then stated that if that official declined to do so, "such a decision is not a final determination by the agency regarding your corrective action plan or your registration," and that "the Administrator may nonetheless consider the corrective action plan in issuing the final order at the conclusion of the proceedings." CR 000040–41.[4]

On April 28, 2022, petitioner elected to waive his right to a hearing under 21 C.F.R. § 1301.43 (2022) and responded in writing. His written statement admitted the underlying conduct and accepted responsibility for it. CR 000102–000106. His corrective action plan proposed that his continued compliance with the MPRP monitoring regime — daily breathalyzer testing, multi-specimen forensic toxicology, vocational monitoring, and monthly clinical review — be adopted as the plan, together with "any monitoring or reporting the DEA requests," and expressly invited discussion of "any potential modifications, amendments, or clarifications to the plan," asking DEA "to defer the revocation proceedings while such discussion occurs." CR 000183–000184.

By letter dated May 5, 2022, the Assistant Administrator of the Diversion Control Division denied the request. The letter described itself as a "limited, preliminary determination," stated that "[t]he Administrator will issue the final Agency adjudication in this case," and added that "there is no

[4] The order to show cause was signed by the Deputy Assistant Administrator, Thomas W. Prevoznik; the May 5 letter by the Assistant Administrator of the Diversion Control Division, Kristi N. O'Malley.

potential modification of your PCAP that could or would alter my decision in this regard." CR 000182.

The government filed its request for final agency action on August 16, 2024, and the Administrator issued the Final Order on September 19, 2025. 90 Fed. Reg. 45,251. The Administrator did not sustain the falsification allegations, which were not treated as a basis for revocation. 90 Fed. Reg. at 45,256. Revocation rested on the public-interest factors concerning compliance with state controlled-substance laws and dispensing experience. The Final Order's treatment of the corrective action plan consists of a single sentence reciting that petitioner had submitted "a proposed Corrective Action Plan, which DEA denied by letter dated May 5, 2022." 90 Fed. Reg. at 45,251. The order's ensuing analysis states that "[t]he Agency has considered Respondent's written statement," *ibid.*, and each of its citations in that analysis is to the written statement; the plan is not cited or discussed again. Among the grounds for declining to entrust petitioner with a registration, the Administrator observed that petitioner "has not explained what he planned to do to remain sober if his probationary period with the Maryland Board ended," *id.* at 45,257, and, in a footnote addressing petitioner's remedial measures, discounted them on the ground that they had been required by the state board rather than voluntarily undertaken, while acknowledging petitioner's commitment to continued sobriety. *Id.* at 45,257 n.14.

C. Proceedings below

Petitioner sought review in the court of appeals, pressing among other claims that the Final Order reflects no determination satisfying § 824(c)(3) and that "[a] bare denial, without engagement with the evidence presented," is legally insufficient, Pet. C.A. Br.

39. The government contested the claim on the merits. Resp. C.A. Br. 23. Petitioner also moved, without opposition, to supplement the record with two documents postdating its closure: the Maryland Board's January 2025 order terminating his probation, and a November 2025 MPRP letter reflecting his completion of the program's monitoring and its clinical endorsement of his practice.

On July 16, 2026, the court of appeals denied the unopposed motion to supplement, citing the general rule confining review to the agency record, and denied the petition for review in an unpublished per curiam judgment. App., *infra*, 1a–4a. As relevant here, the court held that petitioner "has not shown any error in DEA's consideration of his proposed corrective action plan": "DEA reviewed his proposal and responded by letter declining to discontinue proceedings. Petitioner does not demonstrate that anything further was required by 21 U.S.C. § 824(c)." *Id.* at 3a. The court treated as forfeited petitioner's separate argument that the agency's delay warranted vacatur of the Final Order. *Ibid.* Petitioner sought panel rehearing, presenting as his lead ground that the panel had answered whether the agency responded to the plan rather than whether the Administrator made the determination the statute commands; the court denied rehearing on August 18, 2026. App., *infra*, 5a. On October 21, 2026, the court denied petitioner's unopposed motion to stay the mandate pending the filing of this petition.

REASONS FOR GRANTING THE PETITION

I. THE COURT SHOULD RESOLVE WHETHER § 824(c)(3)'S MANDATORY DETERMINATION MAY BE DISCHARGED BY A DECISION THE AGENCY ITSELF TWICE DISCLAIMED AS NON-FINAL

A. Congress made the corrective-action-plan determination a mandatory step

Congress enacted § 824(c)(3) in 2016 against a backdrop of concern that DEA enforcement proceeded to final orders without a structured opportunity for registrants to propose remediation. The House report on the parallel House bill explained that the Attorney General "must weigh the registrant's corrective action plan and suggest additional changes as any revocation or suspension actions proceed." H.R. Rep. No. 114-85, pt. 1, at 6 (2015). The Ensuring Patient Access and Effective Drug Enforcement Act inserted a pre-deprivation mechanism into the charging process itself: every order to show cause must notify the registrant of the opportunity to submit a corrective action plan, § 824(c)(2)(C), and "[u]pon review of any corrective action plan," the Attorney General "shall determine whether denial, revocation, or suspension proceedings should be discontinued, or deferred for the purposes of modification, amendment, or clarification to such plan," § 824(c)(3).

The command is mandatory in form and substance. "Shall" imposes an obligation, not an option. *Anderson v. Yungkau*, 329 U.S. 482, 485 (1947); *see Kingdomware Techs., Inc. v. United States*, 579 U.S. 162, 171–72 (2016) ("Unlike the word 'may,' which implies discretion, the word 'shall' usually connotes a requirement."). Congress's word choice within § 824 itself confirms the

command was deliberate: the same section provides that a registration "may" be suspended or revoked upon the enumerated grounds, § 824(a), while subsection (c)(3) directs that the Attorney General "shall determine." Congress used both words, and chose the mandatory one here. And the obligation is specific: not merely to "review" or "respond to" the plan, but to *determine* the question the statute frames — whether proceedings should be discontinued, or deferred for the purposes of modification, amendment, or clarification to the plan. Congress did not require a favorable answer; the agency may determine that neither disposition is warranted. What it required was the determination itself, situated within a scheme that made deferral-for-modification an available pathway for curing a plan's deficiencies before final action. A reading under which any response at all counts as the determination deletes both the decision and the pathway.

B. No final determination was made — by the agency's own account

The record here does not require the Court to infer non-compliance. The agency documented it, twice, in its own words.

The order to show cause told petitioner that a decision on his plan by the Diversion Control Division "is not a final determination by the agency regarding your corrective action plan or your registration," and that the Administrator "may nonetheless consider the corrective action plan in issuing the final order at the conclusion of the proceedings." CR 000041. That is the agency's own template description of its process: the Division's decision is preliminary, and the agency's determination on the plan comes, if at all, at the final order.

The order to show cause's statement that the Administrator "may nonetheless consider" the plan does not alter the analysis. Nor does the order's assignment of the initial decision to the Deputy Assistant Administrator, framed in the statute's own words. The agency drew the line itself: it described that official's decision in § 824(c)(3)'s terms and, on the same page, declared it "not a final determination by the agency regarding your corrective action plan or your registration." The statute's "shall determine" supplies the duty, and the duty runs to the agency. Section 824(c)(3) does not prescribe the form the determination must take. But it requires one, and three features of this record establish that none was made. The agency told petitioner, before he responded, that the Division's decision would not be its determination on his plan. The Division's letter confirmed as much — "limited, preliminary," with "the final Agency adjudication" reserved to the Administrator — while categorically foreclosing the modification pathway the statute makes available, a combination no nonfinal decision can coherently perform. And the Final Order, the only document the agency ever identified as final, recites the letter and says nothing more. The government may say the letter sufficed. The agency never did.

The Division's letter then said the same thing about itself. It denied discontinuance and deferral while describing that action as a "limited, preliminary determination" and confirming that "[t]he Administrator will issue the final Agency adjudication in this case." CR 000182. In the same breath, it announced that "there is no potential modification of your PCAP that could or would alter my decision in this regard" — categorically foreclosing the modification-and-deferral pathway § 824(c)(3) prescribes, in a document disclaiming authority to resolve anything finally.

And the final adjudication to which both documents deferred did not take the question up. The Final Order recites, once, that petitioner submitted "a proposed Corrective Action Plan, which DEA denied by letter dated May 5, 2022." 90 Fed. Reg. at 45,251. It does not adopt the letter's reasoning, ratify its conclusion, or perform any discontinue-or-defer analysis of its own. Its analysis proceeds from petitioner's *written statement* — a different document, cited throughout — while the plan is not cited or discussed again. *Ibid.* The distinction is the agency's own: the order to show cause provides that submission of a corrective action plan "shall not constitute a request for a hearing … or a written statement regarding your position on the matters of fact and law involved." CR 000041; *see also Ashraf v. DEA*, 153 F.4th 1161, 1171 n.1 (11th Cir. 2025) (Tjoflat, J., concurring) (quoting the same provision). A final order that analyzes only the written statement has not addressed the plan.

The result is a determination that, on the agency's own account, no one ever finally made. If the Division's letter was preliminary — as the order to show cause said it would be, and as the letter said it was — then the statutory determination awaited the Administrator, who did not make it. If the letter was instead the final determination, then the agency closed the statutory modification pathway by a document that told petitioner it was not closing it — and that the Administrator would issue the final adjudication — so that the one official whose engagement petitioner was directed to await never engaged the plan at all. A registrant cannot be told to expect the determination at the final order and then be held to have received it in a letter the agency itself called preliminary. Either way, the determination § 824(c)(3) commands is absent from this record, and the court of appeals' contrary

conclusion — that DEA "reviewed his proposal and responded by letter" and that petitioner "does not demonstrate that anything further was required" — permits a response to stand in for the determination Congress prescribed. App., *infra*, 3a.

And whichever horn of that dilemma the government selects, the same documents establish a second, independent defect: no determination this record contains was discharged in a form the law recognizes. Petitioner pressed below that "[a] bare denial, without engagement with the evidence presented," is legally insufficient. Pet. C.A. Br. 39. The letter identified no plan-specific deficiency and foreclosed modification categorically, and the Final Order supplied no plan-specific reasoning of its own. An agency denying a written request must ordinarily provide "a brief statement of the grounds for denial," 5 U.S.C. § 555(e), and an agency that fails to engage a significant submission placed before it has not reasoned at all. *Ohio v. EPA*, 603 U.S. 279, 292–93 (2024). Those principles apply with greater force where Congress has not merely required reasoned decisionmaking but has specified the determination to be made. Whether framed as absence or as emptiness, the § 824(c)(3) determination this record contains is one no court can review and no statute describes. Nor can the government supply the missing determination through litigation: an order must stand or fall on the grounds the agency itself invoked. *SEC v. Chenery Corp.*, 318 U.S. 80, 87 (1943); *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168–69 (1962).

C. The violation was consequential

This is not a claim of harmless formality. The statutory pathway the agency foreclosed is the pathway

that would have addressed the deficiency the agency later treated as significant.

Petitioner's plan proposed adoption of an intensive, verifiable monitoring regime already in operation, and expressly invited "modifications, amendments, or clarifications," requesting deferral of proceedings while they were discussed. CR 000183. That request tracked § 824(c)(3)'s text: deferral "for the purposes of modification, amendment, or clarification to such plan" is precisely what the statute contemplates when a submitted plan is incomplete. The Division's letter refused categorically, declaring that no modification "could or would alter" its decision. CR 000182.

Three years and four months later, the Administrator declined to entrust petitioner with a registration in part because he "has not explained what he planned to do to remain sober if his probationary period with the Maryland Board ended." 90 Fed. Reg. at 45,257. The plan petitioner proposed was tied to his probation. If the agency wanted a commitment that outlasted it, the statute told the agency how to ask: defer the proceeding and seek modification of the plan. Instead the Division refused categorically, and three years later the Administrator faulted petitioner for the term the agency never requested.

The Final Order's footnote addressing petitioner's remediation confirms the point rather than answering it. The Administrator there discussed the remedial measures described in the 2022 written statement and discounted them in part because they had been required by the state board rather than voluntarily undertaken. 90 Fed. Reg. at 45,257 n.14. Petitioner's corrective action plan was the voluntary undertaking — his own proposal to adopt the monitoring regime as his plan and to accept "any monitoring or reporting the

DEA requests." CR 000184. Whatever else footnote 14 resolved, it did not address the plan's distinct proposed undertakings or explain why they did not warrant the disposition § 824(c)(3) describes.

Petitioner does not ask this Court to speculate that a modified plan would have succeeded, and he acknowledges that the Administrator's entrustment analysis rested also on acceptance-of-responsibility grounds. The point is narrower: Congress required the agency to decide whether deferral for modification was warranted. Petitioner claims no entitlement to modification; he challenges the absence of any determination — or any explanation — addressed to that statutory alternative. The gap the agency refused to let petitioner close in 2022 is the gap on which it revoked in 2025. That is not harmless error; it is the harm the statute exists to prevent. The rule of prejudicial error asks whether the error affected the outcome. 5 U.S.C. § 706; *Shinseki v. Sanders*, 556 U.S. 396, 409–10 (2009). Here the omitted step was the one Congress designated for curing the deficiency on which the agency later acted, and the Final Order itself draws the connection. No speculation about how the agency would have exercised a judgment it never made is required — and none is permitted. *Chenery*, 318 U.S. at 94–95.

D. The question is important, recurring, and unresolved

The corrective-action-plan mechanism is available in every DEA enforcement proceeding commenced by order to show cause — to the approximately 2.2 million registrants: practitioners, pharmacies, hospitals,

distributors, and manufacturers.[5] For each registrant, the corrective-action-plan determination is the sole statutory mechanism for resolving such a proceeding short of final adjudication. Whether that mechanism entails an actual determination, or is satisfied by correspondence the agency itself disclaims, decides whether the 2016 Act's central protection operates at all. This Court has never construed § 824(c)(3). The agency's own practice confirms where the determination belongs: in every published final order petitioner has located in which a plan was submitted and the matter was decided on the merits, the Administrator stated in the final order whether the plan warranted discontinuance or deferral. *See* n.6, *infra*. The decision below holds that nothing of the kind is required. If that holding stands, it sets the floor in the one circuit to which every registrant may bring a petition for review. 21 U.S.C. § 877.

The question is unlikely to receive authoritative resolution without this Court's review. Review of DEA orders proceeds directly to the courts of appeals, 21 U.S.C. § 877 — in the D.C. Circuit or the circuit of the registrant's principal place of business. Dispositions in this area are typically unpublished and fact-bound; the decision below, resolving the question in two sentences without published reasoning, is characteristic.[6] A question that recurs in every such proceeding,

---

[5] Drug Enforcement Admin., Diversion Control Div., *Registrant Population — Summary* (cycle 08-2026), https://apps.deadiversion.usdoj.gov/RAPR/raprRegistrantPopulationSummary.xhtml (last visited Sept. 8, 2026) (reporting 2,275,711 active registrants).

[6] The agency's own orders confirm the reading. In every published order petitioner has located from 2017 to the present in which a corrective action plan was submitted and the matter was decided on the merits, the Administrator stated in the final order whether the plan warranted discontinuance or deferral—

yet is answered in unpublished orders, is unlikely to be settled in the ordinary course.

And it is a question of pure statutory interpretation on undisputed documents. The court below did not defer to an agency interpretation of § 824(c)(3); it accepted the agency's description of its own process — that DEA "reviewed his proposal and responded by letter" — as satisfying the statute, without asking what the word "determine" requires. App., *infra*, 3a. That is the inquiry a reviewing court must conduct for itself. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394–95 (2024). The disposition below asked whether the agency responded; the statute asks whether the Attorney General determined. Which question governs is a matter of independent statutory judgment, and it has yet to be exercised by any court.

---

typically in the statute's own terms. *See, e.g.*, *Ljudmil Kljusev, M.D.*, 83 Fed. Reg. 30,974, 30,976 (2018) ("I find that Respondent's Corrective Action Plan provides no basis for me to discontinue or defer this proceeding. 21 U.S.C. 824(c)(3)."); *Ajay S. Ahuja, M.D.*, 84 Fed. Reg. 5,479, 5,479 (2019) ("I agree with the Agency's denial of Respondent's CAP, and I too reject it."); *Salvatore Cavaliere, D.O.*, 85 Fed. Reg. 45,657, 45,667 (2020) (same formula, citing § 824(c)(3)); *Sohail Mamdani, M.D.*, 88 Fed. Reg. 1,099, 1,100 (2023) ("the Agency agrees"); *John Qian, M.D.*, 89 Fed. Reg. 59,934, 59,936 (2024); *Sualeh Ashraf*, M.D., 88 Fed. Reg. 1,095, 1,098 n.18 (2023), pet. for rev. denied, 153 F.4th 1161 (11th Cir. 2025). In one such case the Acting Administrator declined to rule until the Division's determination on the plan had been placed in the record before him, *Yoon H. Choi, M.D.*, 82 Fed. Reg. 49,663, 49,664 (2017); in another, decided eleven days after the order under review, the Administrator resolved in the final order whether a filing constituted a plan at all, *Hollywood Med. Rehab. Care, Inc.*, 90 Fed. Reg. 47,827, 47,831 (2025). The Final Order here contains no such determination.

II. THIS CASE IS AN EXCEPTIONALLY CLEAN VEHICLE

Preservation is complete at every stage. The question was pressed in the opening brief, Pet. C.A. Br. 38–42, developed in reply, Reply Br. 14–17, and presented as the lead ground on rehearing in precisely the form framed here — that the panel had answered whether the agency responded rather than whether the Administrator made the required determination. Reh'g Pet. 3–5. The panel rejected the claim and subsequently denied rehearing. App., *infra*, 3a, 5a. The order to show cause's own statement that a Division decision "is not a final determination by the agency regarding your corrective action plan or your registration" is record evidence, CR 000041, offered in further support of the claim pressed below; a party "can make any argument in support of" a properly presented claim. *Yee v. City of Escondido*, 503 U.S. 519, 534 (1992). Petitioner's Fifth Amendment due process claim was pressed as a titled argument below, contested on the merits, and expressly preserved on rehearing "for any further review," Reh'g Pet. 11; it is not presented here.

The question is dispositive of the judgment below and purely legal. It turns on the face of documents reproduced in the appendix — the order to show cause, the corrective action plan, the Division's letter, the Final Order, and the judgment. No factual dispute exists, and a ruling for petitioner requires vacatur and remand for the agency to proceed as the statute directs.

The anticipated objections do not withstand scrutiny. That the disposition below is unpublished is no barrier: Rule 10 nowhere conditions review on publication, and a recurring question resolved without

published reasoning presents a stronger, not weaker, case for settlement by this Court. *Cf. Plumley v. Austin*, 574 U.S. 1127, 1129–30 (2015) (Thomas, J., dissenting from denial of certiorari) (unpublished disposition of a significant question should not insulate it from review). That no circuit conflict exists reflects the review structure — few published decisions exist to conflict — and Rule 10(c) importance is the appropriate measure. The forfeiture ruling below concerned arguments about the agency's delay as a ground for vacating the Final Order — a ground this petition does not present. Two district-court actions concerning the agency's delay and the resulting Medicare enrollment action were dismissed on September 29, 2026, as moot, as within § 877's exclusive review scheme, and for failure to exhaust. *See* p. ii, *supra*. No judicial proceeding concerning the merits of the order under review remains pending in any court. The question presented was decided on the merits. Petitioner's 2022 hearing waiver is likewise no obstacle: the § 824(c)(3) duty attaches "[u]pon review of any corrective action plan," whatever the hearing posture. Finally, DEA's subsequent amendment of its hearing regulations does not diminish the question's importance: it arises under the statute, which is unchanged, and the corrective-action-plan process continues to govern every proceeding commenced by order to show cause under the amended regulations. *See* § 824(c)(2)(C).

The stakes are concrete. The revocation has foreclosed the specialty to which two decades of petitioner's training and practice were directed, and it has propagated through federal healthcare-program enrollment and the credentialing and payor contracts on which clinical practice depends. The question presented decides, for every registrant who receives an

order to show cause, whether the protection Congress enacted in 2016 has operative content.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

JORGE LUIS VASQUEZ, JR.
Counsel of Record
VASQUEZ ATTORNEYS AT LAW, P.C.
141 Parkway Road, Suite 14
Bronxville, NY 10708
(212) 752-8408
jorge@vasquezpc.com

Counsel for Petitioner

October 23, 2026

APPENDIX

APPENDIX TABLE OF CONTENTS

Page

APPENDIX A: Judgment of the United States Court of Appeals for the District of Columbia Circuit, *Hameed v. Drug Enforcement Administration*, No. 25-1192 (July 16, 2026) 1a

APPENDIX B: Order of the United States Court of Appeals for the District of Columbia Circuit Denying Petition for Panel Rehearing (Aug. 18, 2026)..... 5a

APPENDIX C: Decision and Order of the U.S. Department of Justice Drug Enforcement Administration, Haroon Hameed, M.D., 90 Fed. Reg. 45,251 (Sept. 19, 2025)..... 6a

APPENDIX D: Letter from Kristi N. O'Malley, Assistant Administrator, Diversion Control Division, Denying Proposed Corrective Action Plan (May 5, 2022) (C.R. 182) 35a

APPENDIX E: Order to Show Cause of the U.S. Department of Justice Drug Enforcement Administration (Mar. 25, 2022) (C.R. 37–41)..... 37a

APPENDIX F: Proposed Corrective Action Plan (Apr. 28, 2022) (C.R. 183–84)..... 46a

APPENDIX G: Statutory and Regulatory Provisions Involved 49a

21 U.S.C. § 823 ..... 49a

21 U.S.C. § 824 ..... 51a

5 U.S.C. § 555 ..... 55a

5 U.S.C. § 706 ..... 56a

21 C.F.R. § 1301.43 ..... 57a

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

[Filed On: July 16, 2026]

No. 25-1192

HAROON I. HAMEED,

Petitioner

v.

DRUG ENFORCEMENT ADMINISTRATION AND
TERRANCE COLE, ADMINISTRATOR,

Respondents

September Term, 2025
DEA-90FR45251

PETITION FOR REVIEW FROM AN ORDER OF
THE DRUG ENFORCEMENT ADMINISTRATION

BEFORE: Millett, Wilkins, and Katsas,
Circuit Judges

JUDGMENT

This petition for review of an order of the Drug Enforcement Administration ("DEA") was considered on the briefs and certified record filed by the parties. *See* Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon

consideration of the foregoing and the motion to supplement the record, it is

ORDERED that the motion to supplement the record be denied. Petitioner has not demonstrated "unusual circumstances justifying a departure" from the general rule that this court reviews "only those documents that were before the agency." *Mozilla Corp. v. FCC*, 940 F.3d 1, 61 (D.C. Cir. 2019) (citation omitted). It is

FURTHER ORDERED AND ADJUDGED that the petition for review be denied. Petitioner has not shown that DEA's order revoking his certificate of registration and denying any pending applications for registration was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2)(A), or unsupported by substantial evidence, 21 U.S.C. § 877. *See Morall v. DEA*, 412 F.3d 165, 176-77 (D.C. Cir. 2005). Specifically, petitioner has not shown that DEA ignored relevant evidence that was in the record or prohibited him from submitting evidence, nor has he identified any legal authority requiring DEA to independently search for evidence not presented by the parties. Petitioner also has not shown that DEA's analysis of the public interest factors in 21 U.S.C. § 823, including its consideration of, inter alia, his past compliance with state laws relating to controlled substances, was not in accordance with the statutory scheme.

Petitioner also has not demonstrated that DEA's sanction decision is arbitrary, capricious, an abuse of discretion, or not in accordance with law. DEA's "choice of sanction is entitled to substantial deference." *Chein v. DEA*, 533 F.3d 828, 835 (D.C. Cir. 2008). Although petitioner argues he should have received a lesser sanction, he has not shown that revocation of his

registration was "unwarranted in law" or "without justification in fact," *Morall*, 412 F.3d at 181 (citation omitted), or that "DEA has a consistent policy of allowing a practitioner to retain his registration under similar circumstances," *Chein*, 533 F.3d at 836 (emphasis omitted).

As to petitioner's remaining arguments, he has not shown any error in DEA's consideration of his proposed corrective action plan. DEA reviewed his proposal and responded by letter declining to discontinue proceedings. Petitioner does not demonstrate that anything further was required by 21 U.S.C. § 824(c). Additionally, DEA's order to show cause provided petitioner adequate notice of the allegations against him and his opportunities to present any objections, and DEA considered his written submission. Petitioner has not identified any other process he was constitutionally due. *See English v. District of Columbia*, 717 F.3d 968, 972-74 (D.C. Cir. 2013). Finally, petitioner's arguments about delay are forfeited because he raises them only "in the most skeletal way" in his opening brief and belatedly elaborates on them only in his reply brief. *Twin Rivers Paper Co. v. SEC*, 934 F.3d 607, 615 (D.C. Cir. 2019); *Al-Tamimi v. Adelson*, 916 F.3d 1, 6 (D.C. Cir. 2019). In any event, "delay alone is not enough . . . to justify setting aside agency action," and petitioner has not identified harms attributable specifically to the agency's purported delay. *Solenex LLC v. Bernhardt*, 962 F.3d 520, 527 (D.C. Cir. 2020) (brackets omitted) (citing *Dayton Tire v. Sec'y of Lab.*, 671 F.3d 1249, 1253 (D.C. Cir. 2012)).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or

petition for rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

[Filed On: August 18, 2026]

———

No. 25-1192

———

HAROON I. HAMEED,

Petitioner

v.

DRUG ENFORCEMENT ADMINISTRATION AND
TERRANCE COLE, ADMINISTRATOR,

Respondents

———

September Term, 2025
DEA-90FR45251

———

BEFORE: Millett, Wilkins, and Katsas,
Circuit Judges

———

ORDER

Upon consideration of the petition for rehearing, it is ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Clifton B. Cislak, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

APPENDIX C

Federal Register / Vol. 90, No. 180 / Friday, September 19, 2025 / Notices

[45251]

* * *

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Haroon Hameed, M.D.; Decision and Order

I. Introduction

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

More specifically, the OSC alleged that between October 2019 and May 2020, Respondent abused controlled substances and saw patients and performed medical procedures while abusing controlled substances. *Id.* at 2-3. Further, the OSC alleged that Respondent's renewal application contained material

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

falsifications. *Id.* at 3-4. The OSC alleged that Respondent's above-described misconduct violated both the implementing regulations of the Controlled Substances Act (CSA) and Maryland state law. *Id.* at 2-4.

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

After carefully reviewing the entire record and conducting the analysis as set forth in more detail below, the Agency grants the Government's request for final agency action and revokes Respondent's registration and denies pending applications as his continued registration is inconsistent with the public interest.

II. Public Interest

A. Applicable Law

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

> Congress was particularly concerned with the need to prevent the diversion of drugs from legitimate to illicit channels. To effectuate these goals, Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner

> authorized by the CSA . . . . The CSA and its implementing regulations set forth strict requirements regarding registration, labeling and packaging, production quotas, drug security, and recordkeeping.

Id. at 12-14.

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

B. Findings of Fact

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

On or about November 5, 2020, the Maryland State Board of Physicians (Board) summarily suspended Respondent's Maryland medical license following a Board investigation finding that Respondent had seen patients and performed medical procedures while

under the influence of controlled substances and alcohol. RFAAX 1, Attachment F, at 2-6. One such incident occurred on August 28, 2019, when Respondent performed a radiofrequency ablation instead of a cervical facet block which had been ordered and consented to in writing. *Id.* at 4. On February 17, 2020, Respondent was observed to be swaying while he performed a procedure on a patient, and staff suspected that he was impaired due to slurred speech, bloodshot eyes, and the smell of alcohol on his person. *Id.* at 5. On May 5, 2020, Respondent was observed at work with disheveled clothing and appearance, glassy and heavy eyes, slurred speech, and a lack of coordination. *Id.* at 6.

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

On or about November 1, 2021, the Board issued a Final Decision and Order regarding Respondent's Maryland medical license, finding, *inter alia,* that: (1) every night between October 2019 and May 2020, Respondent consumed a combination of oxycodone (a Schedule II opioid), eszopiclone (a Schedule IV sedative), and alcohol, RFAAX 1, Attachment G, at 2; (2) on May 5, 2020, Respondent reported to work [45252] intoxicated following consumption of alcohol, oxycodone, and eszopiclone in excess of the prescribed

dose, *Id.* at 68; and (3) on multiple occasions, including on February 17, 2020, Respondent saw patients and performed medical procedures while under the influence of a combination of an opioid, sedative, and alcohol. *Id.* at 5-6, 8.

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

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

---

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

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

C. Discussion

i. The Controlled Substances Act's Public Interest Factors

The Attorney General "may deny, suspend, or revoke [a] registration if . . . the [registrant's] registration would be 'inconsistent with the public interest.'" *Gonzales v. Oregon,* 546 U.S. at 251 (quoting 21 U.S.C. 824(a)(4)). In the case of a "practitioner," Congress directed the Attorney General to consider five factors in making the public interest determination. *Id.;* 21 U.S.C. 823(g)(1)(A—E).[3]

[3] The five factors are:

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

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 FR 4447, 4448 (1995))); *Robert A. Leslie, M.D.,* 68 FR 1 5 2 2 7, 15230 (2003). Each factor is weighed on a case-by-case basis. *David H. Gillis, MD.,* 58 FR 37507, 37508 (1993); *see Morall v. Drug Enf't Admin.,* 412 F.3d 165, 181 (D.C. Cir. 2005) (describing the Agency's adjudicative process as "applying a multi-factor test through case-by-case adjudication" (quoting *LeMoyne-Owen Coll. v. N.L.R.B.,* 357 F.3d 55, 61 (D.C. Cir. 2004))). Any one factor, or combination of factors, may be decisive, *David H. Gillis, M.D.,* 58 FR at 37508, 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, MD.,* 70 FR 33207, 33208 (2007)); *see also Penick Corp. v. Drug Enft 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, LW v. Drug En ft 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

---

21 U.S.C. 823(g)(1)(A—E).

protecting the public interest; what matters is the seriousness of the registrant's misconduct." *Jayam Krishna-Iyer, MD.,* 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, Agency decisions have explained that findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821.

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

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

While the Agency has considered all the public interest factors of 21 U.S.C. 823(g)(1),[4] the Agency finds that the Government's evidence in support of its *prima facie* case is confined to Factors B and D.[5] RFAA,

---

[4] As to Factor A, the record contains no evidence of a recommendation from any State licensing board or professional disciplinary authority. 21 U.S.C. 823(g)(1)(A). Nonetheless, an absence of such evidence "does not weigh for or against a determination as to whether continuation of [or granting of a] DEA certification is consistent with the public interest." *Roni Dreszer, M.D.,* 76 FR 19434, 19444 (2011). As to Factor C, there is no evidence in the record that Respondent has been convicted of an offense under either Federal or State law "relating to the manufacture, distribution, or dispensing of controlled substances." 21 U.S.C. 823(g)(1)(C), However, as Agency cases have noted, "the absence of such a conviction is of considerably less consequence in the public interest inquiry" and is therefore not dispositive. *Dewey C. MacKay, M.D.,* 75 FR 49956, 49973 (2010).

[5] The Government alleged in the RFAA that Factor E, "[s]uch *other* conduct which may threaten the public health and safety," weighed in favor of revocation. 21 U.S.C. 823(g)(1)(E) (emphasis added); RFAA, at 10-11. The Agency notes that Respondent "stipulate[ed]" that he had "engaged in other conduct which may threaten the public health and safety." RFAAX 2, at 10. While the Agency agrees that Respondent's conduct, particularly his performance of procedures while under the influence of alcohol

at 9-12. Evidence is considered under Factors B and/or D when it reflects experience in dispensing and/or compliance or non-compliance with federal and local laws related to controlled substances. 21 U.S.C. 823(g)(1)(B) and (D); *see also Kareem Hubbard, MD.,* 87 FR 21156, 21162 (2022).

Here, as found above, the Agency finds that between at least October 2019 and May 2020, Respondent habitually abused a combination of controlled substances and alcohol resulting in habitual intoxication, consumed [45253] controlled substances in excess of the prescribed dose, and on multiple occasions, saw patients and performed medical procedures while under the influence of controlled substances and alcohol. *Supra,* I.B.

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

---

and controlled substances, threatened the public health and safety, the same conduct fits squarely under Factor B and D as reflecting experience in dispensing and/or establishing violations of Maryland law. Accordingly, the Agency evaluates the conduct under Factor B and D. As to Factor B, Respondent argues that his experience in dispensing controlled substances is unblemished. RFAAX 2, at 9. The Agency disagrees; Respondent's admission that he took more controlled substances than he was prescribed is relevant to his experience in dispensing. *Id.,* at 23-24; see also 21 U.S.C. 802(10).

any narcotic or controlled dangerous substance in violation of Md. Code Ann., Health Occ. §14-404(a)(9).[6]

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

III. Material Falsification

A. Findings of Fact

The Agency finds clear, unequivocal, and convincing record evidence for each of the following facts. On October 31, 2021, Respondent applied for renewal of his DEA Certificate of Registration. RFAAX 1, at 5; see also RFAAX 1, Attachment B. All applications for a DEA registration contain four liability questions that an applicant must answer. RFAAX 1, Attachment B, at 1. For each question the applicant answers in the affirmative, he or she must provide additional details regarding the answer, including the date, location, nature, and result of the incident. *Id. at* 2. The OSC alleges that Respondent materially falsified his answers to both Liability Question 1 and Liability Question 1 RFAAX 1, Attachment C, at 3.

---

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

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

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

The Agency finds clear, unequivocal, and convincing record evidence that Liability Question 3 asks: "Has the applicant ever surrendered (for cause) or had a

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

state professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation or is any such action pending?" RFAAX 1, at 5; RFAAX 1, Attachment B, at 1. On his October 31, 2021 renewal application, Respondent answered "Yes" to Liability Question 3. RFAAX 1, Attachment B, at 1-2. When prompted to explain the "Nature" of the incident Respondent disclosed: "I had my Maryland license suspended after a complaint regarding that I presented to work drowsy for 3045 min a few weeks after having a hip replacement." *Id. at* 2 (capitalization edited). Respondent went on to state that he has "complied with the Maryland Physician Health Program" and that his Maryland license is being considered for reinstatement; he also stated that his Florida license was unrestricted. *Id.* Finally, Respondent stated that "[he] did not have any issues that were pertinent to DEA licensure including improper prescribing of controlled substance prescriptions." *Id.* Regarding the "Result" of the state action against him, Respondent wrote "awaiting expected Maryland license reinstatement within the next 2 weeks." *Id.* (capitalization edited).

The record evidence establishes that Respondent in fact had "[his] Maryland license suspended," and that the suspension occurred "after a complaint." RFAAX 2, at 3. The record evidence also indicates that Respondent's hip "required surgical intervention on February 20, 2020." *Id.* at 36. The record evidence further establishes that a few weeks later, Respondent presented to work drowsy. *Id.* Specifically, the record establishes that on May 5, 2020, "[Respondent] overslept and arrived at work ten to fifteen minutes late." *Id.* Respondent admitted that he had taken oxycodone and eszopiclone and had consumed alcohol the night before "to aid with sleep and pain." *Id.*

Respondent further admitted "that when he arrived at the facility on the morning of May 5, 2020, he was impaired by sleep deprivation, use of a sleep aid in excess of the prescribed dose, and use of a Schedule II narcotic pain medication prescribed to alleviate his chronic pain." *Id.* at 37. On November 30, 2021, about a month after Respondent submitted the application, the Maryland Board terminated his suspension and reinstated his state medical license (and placed it on probation). RFAAX 1, Attachment C, at 2.

B. Discussion

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

To present a *prima facie* case for material falsification, the Government's record evidence must show (1) the submission of an application, (2) containing a false statement and/or omitting information that the application requires, (3) when the submitter knew or should have known that the statement is false and/or that the omitted information existed and the application required its disclosure, and (4) the false statement and/or required but omitted information is material, that is, it "connect[s] to at least one of [the section 823] factors that, according to the CSA, [the Administrator] 'shall' consider" when analyzing "whether issuing a registration 'would be inconsistent with the public interest.'" *Frank Joseph Stirlacci, M.D.,* 85 FR 45229, 45238 (2020) (citing 21 U.S.C. [45254] 823 and *Kungys v. United States,* 485 U.S. 759, 771 (1988)). The Government must establish material falsification with record evidence that is clear, unequivocal, and convincing. *Kungys,* 485 U.S. at 772; *Stirlacci,* 85 FR at 45230-39.

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 FR 21719, 21720 (2023) (applicant falsely answered "no" to Liability Question 3 on seventeen applications when the true answer was "yes"); *Richard J. Settles, D.O.,* 81 FR 64940, 64945-46 (2016) (applicant failed to disclose an interim consent agreement restricting his license based on findings that he issued controlled substance prescriptions without federal or state legal authority to do so). In making this assessment, the Agency will examine the entire application, including registrant's "yes/ no" answers to the liability questions and any follow-up response(s). *Daniel A. Glick, D.D.S.,* 80 FR 74800, 74802, 74808-09 (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 FR 53942, 53956 (2011) (omission of a probation which the application required to be identified); *Michel P. Toret, M.D.,* 82 FR 60041, 60042 (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 FR 52293, 52295 (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 FR 8687, 8688 (1998) ("It is also undisputed that Respondent knew that his Ohio dental license had previously been suspended."); *Bobby Watts, M.D.,* 58 FR 46995, 46995 (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 FR at 45236-37 & nn.22-23 (collecting cases).

Fourth, the Government must prove that the false statement and/or required but omitted information is "material." *Kungys* holds that a statement is material if it is "predictably capable of affecting, *i.e.,* had a natural tendency to affect, the [Agency's] official decision," or stated differently, "had a natural tendency to influence the decision." 485 U.S. at 771-72. As already discussed, materiality, for the purposes of the CSA, is tied to the factors that the Administrator "shall" consider when determining whether issuance of a registration "would be inconsistent with the public interest." 21 U.S.C. 823; *Kungys,* 485 U.S. at 771-72; *Stirlacci,* 85 FR at 45234, 45238.

Here, the Agency finds that the Government's evidence fails to meet the *prima facie* burden of showing that Respondent submitted a materially false application. 21 U.S.C. 824(0(1).

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

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

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

As discussed above, Liability Question 1 asks whether Respondent has ever "been excluded or directed to be excluded from participation in a . . . state health care program . . . ?" *Supra,* III.A; RFAAX 1, Attachment B. Liability Question 1 is meant to obtain information necessary to conduct the analysis in 21 U.S.C. 824(0(5)[8] which allows for denial, revocation, or

[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, MD.,* 86 FR 33738, 33744-45 (2021) (collecting cases).

suspension of a registration if the registrant "has been excluded (or directed to be excluded) from participation in a program pursuant to section [42 U.S.C.] 1320a-7(a)." "Exclusion" is a specific, but undefined, statutory term used in 42 U.S.C. 1320a-7 which governs exclusion of certain individuals and entities from participation in Medicare and state health care programs.

Prior to submitting his renewal application, the state notified Respondent that pursuant to "[Maryland] regulation 10.09.36.02 License Requirements, [he was] terminated as a Medicaid provider." *Supra,* III.A; RFAAX 1, Attachment I. The notice did not use the word "excluded" or cite to 42 U.S.C. 1320a-7(a).[9] RFAAX 1, Attachment I. Put another way, there is no evidence in the record that Respondent's "termination" meant that he was "excluded" from a state health care program pursuant to 42 U.S.C. 1320a-7(a). Accordingly, the Government has not established by clear, unequivocal, and convincing record evidence that Respondent's "no" answer in response to Liability Question *1 was* false. Because the record evidence does not prove that Respondent provided a false answer to Liability Question 1, the Agency need not reach the

[9] Both the OSC and the RFAA appear to conflate the terms "termination" and "exclusion" without providing any evidence or argument supporting the position that the two terms mean the same thing. *See* RFAA, at 12-13; RFAAX 1, Attachment C, at 3. However, comparing Maryland regulation 10.09.36.02, the authority relied upon to "terminate" Respondent's participation, to 42 U.S.C. 1320a-7, the authority discussing "exclusions" from participation in Medicare and state health care programs, suggests that the two terms are not synonymous,

issue of materiality regarding the answer to Liability Question 1.[10]

[45255] Continuing the analysis, Respondent truthfully answered Liability Question 3 in the affirmative, stating that his state license had been suspended. *Supra, III.A.* Thereafter, Respondent was prompted to explain the "Nature" and "Result" of the state action against him. *Id.* The Government argued that Respondent's explanation falsified and/ or omitted required information such that the narrative response was "materially false." More specifically, the Government argued that Respondent "provided a false response as to why his Maryland state license was suspended" and that there is a "vast[] " difference between what Respondent wrote about being "drowsy" and the finding that Respondent provided professional services while abusing controlled substances.[11]

---

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

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

RFAA, at 13, 17; RFAAX 1, Attachment C, at 3. The Government also argued that Respondent falsely stated that his "issues were not pertinent to DEA licensure." RFAA, at 13.

In determining whether Respondent made a false statement and/or omitted required information, the Agency looks carefully at the exact language used in the application itself and the exact language used by the applicant. *See JM Pharmacy Group, Inc. d/b/a Farmacia Nueva and Best Pharma Corp.,* 80 FR 28667, 28681 (2015) (stating that a falsity must be analyzed in the context of the application requirements sought by DEA and provided by the applicant). Regarding "Nature" and "Result" Respondent wrote:

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

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

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

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

supra, II.B. Accordingly, the Agency finds clear, unequivocal, and convincing record evidence that Respondent's statement that he "did not have any issues pertinent to DEA licensure" is also false. RFAAX 1, Attachment B, at 2 (capitalization edited).

In addition to the two falsities above, the Government alleges an omission; specifically, that Respondent's application failed to disclose that his medical license was suspended based on, among other reasons, "a finding that he habitually abused a narcotic or controlled dangerous substance." RFAA, at 13. This argument fails for two reasons, first the "habitual intoxication" charge was not found until November 1, 2021, after Respondent submitted the application. RFAAX 1, Attachment G, at 9, 13-14, 20. The record does not contain any evidence regarding an applicant's duty, if any, to supplement the application after the date it is submitted to DEA. Second, there is no evidence in the record regarding specific instructions, if any exist, included with the application that specify the level of detail the Government requires in response to the prompts for "Nature" and "Result" of the state action. Certainly some detail is required, as the prompts are follow up questions asking for an explanation, and Respondent did provide details about the complaint, problems with drowsiness at work following surgery, and the suspension of his license. Respondent argued that he "could have provided a more detailed explanation of the specific charges brought before the Maryland Board, his summary suspension, and the ALJ's recommendation . . . [if he was] aware that it was expected, let alone required, to do so." RFAAX 2, at 18. Under the circumstances, the Agency finds that the Government has failed to establish by clear, unequivocal, and convincing record evidence that Respondent falsified

his application by omitting information regarding the Maryland Board's Final Decision and Order (which had not yet been issued). However, the two false statements found by the Agency require further analysis.

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

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

Here, Respondent disclosed on the application that there was a complaint made against him that resulted in a suspension of his Maryland medical license on November 5, 2020. RFAAX 1, [45256] Attachment B, at 2. He disclosed that the complaint was made because he reported to work "drowsy" after having surgery. *Id.* He explained that he had participated in the Maryland Physician Health Program. *Id.* He explained that he was expecting reinstatement of his Maryland license in the near future and that he has already had a hearing on the matter. *Id.* He explained that the Florida Department of Health was also aware of the

events in Maryland, yet he maintained his license in Florida. *Id.*

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

In sum, because the Government is unable to establish by clear, unequivocal, and convincing record evidence that Respondent's application contained falsities that were also material, the Government has

---

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

not established *a prima facie* case of material falsification. However, as previously discussed, the Government has established that Respondent's registration is inconsistent with the public interest.

IV. Sanction

Here, the Government has met its *prima facie* burden of showing that Respondent's continued registration is inconsistent with the public interest due to his violations of state law relating to controlled substances and experience in dispensing with respect to controlled substances. Accordingly, the burden shifts to Respondent to show why he can be entrusted with a registration. *Moral],* 412 F.3d. at 174; *Jones Total Health Care Pharmacy,* 881 F.3d at 830; *Garrett Howard Smith, M.D.,* 83 FR 18882, 18904 (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 FR 46968, 46972 (2019); *see also Jones Total Health Care Pharmacy,* 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that he will not engage in future misconduct, *Jones Total Health Care Pharmacy,* 881 F.3d at 833; *ALRA Labs, Inc. v. Drug Enf't Admin.,* 54 F.3d 450, 452 (7th Cir. 1995). A registrant's acceptance of responsibility must be unequivocal. *Jones Total Health Care Pharmacy,* 881 F.3d at 830-31. In addition, a registrant's candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* Further, the Agency has found that the egregiousness and extent of the misconduct are

significant factors in determining the appropriate sanction, *Id.* at 834 & n.4. The Agency has also considered the need to deter similar acts by the registrant and by the community of registrants. *Jeffrey Stein, M.D.,* 84 FR at 46972-73.

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

In his Declaration, Respondent swore to all the ways he believed he was in compliance with the CSA. He claimed that he had "never prescribed any substance for myself[,] . . . sought nor received prescriptions for pain medicine from more than one treating physician at a time[,] . . . never diverted any controlled substances[, and] . . . never been accused of dispensing controlled substances in an unethical or illegal manner." RFAAX 2, at 23. Immediately after, Respondent admits that on or about May 5,2020, he "[took] an extra dose of both the oxycodone [he] was prescribed for pain and [eszopiclone], which [he] was prescribed for insomnia." *Id.* Respondent's failure to appreciate that taking more controlled substances than prescribed is drug abuse, which the CSA was

enacted to prevent, calls into question whether the Agency can trust Respondent with a registration.[13] This is especially true where Respondent deemphasizes his drug abuse by emphasizing that the extra doses he took were for "medicine that was lawfully prescribed to him for existing and documented medical conditions." RFAAX 2, at 10. Trying to downplay the seriousness of his drug abuse further demonstrates that he cannot be trusted with registration. *See, e.g., Phong H. Tran, M.D.,* 90 FR 14383, 14385 (2025) ("Respondent's attempts to minimize this egregious misconduct undermine any purported acceptance of responsibility.").

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

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

---

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

showing of acceptance of responsibility, the Agency need not address the registrant's remedial measures. *Ajay S. Ahuja, M.D.,* 84 FR 5479, 5498 n.33 (2019) (citing *Jones Total Health Care* [45257] *Pharmacy, L.L.C. & SND Health Care, L.L.C.,* 81 FR 79188, 79202-79203 (2016)); *Daniel A. Glick, D.D.S.,* 80 FR 74800, 74801, 74810 (2015).[14]

---

[14] Even so, in the current matter, the Agency has considered that Respondent has taken various measures to remedy his misconduct regarding his controlled substance and alcohol abuse, as detailed in his written submission to DEA. *See* RFAAX 2, at 3-4, 5-6, 9,11-12. Respondent stated that he completed all of the actions recommended by the Maryland Physician Health Program (MPHP), and "has remained sober and abstinent from controlled substances" since December 2020 (except for a two-week period following surgery in 2021). RFAAX 2, at 24-25. The Agency has acknowledged that "[i]n self-abuse cases, . . . successful rehabilitation efforts are an important consideration in determining whether a respondent can be trusted with a registration." *Trenton F. Horst, D.O.,* 80 FR 41079, 41091 (2015); *see also Abbas E. Sina, M.D.,* 80 FR 53191, 53201 (2015) ("[T]he risk of relapse becomes critical in determining what steps are warranted when determining the public interest."). Here, Respondent explained what he had done to obtain sobriety, but many of his actions were required by the Maryland Board as part of his probation. *See Mary A. Vreeke, M.D.,* 89 FR 75567, 75571 (2024). And though Respondent has not explained what he planned to do to remain sober if his probationary period with the Maryland Board ended, the Agency appreciates that Respondent has committed to continue working on his sobriety for himself and not just for his career. RFAAX 2, at 2526. Still, these remedial measures do not overcome the fact that Respondent did not unequivocally accept responsibility for his actions or convince the Agency that he can be trusted with the responsibility of a registration, *See, e.g., George D. Gowder, Iti,* 89 FR 76152,76154-55 (2024) (the Agency found that registrant could be trusted in light of his acceptance of responsibility and extensive remedial measures (both past and future), including his decision to not

Further, the interests of specific and general deterrence weigh in favor of revocation. Here, Respondent has not unequivocally accepted responsibility for, and even tried to minimize, his actions related to abuse of controlled substances. Accordingly, the interests of specific deterrence weigh in favor of revocation. Given the foundational nature of Respondent's violations, a sanction less than revocation would send a message to the existing and prospective registrant community that compliance with the law is not essential to maintaining a registration.

V. Conclusion

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

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. F118064204 issued to Haroon Hameed, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Haroon Hameed, M.D., to renew or modify this registration, as well as any other pending application of Haroon Hameed, M.D., for additional

---

seek registration to handle the controlled substances he formerly abused, and nine years of sobriety).

registration in Maryland. This Order is effective October 20, 2025.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 10, 2025, by Administrator Terrance Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2025-18172 Filed 9-18-25; 8:45 am]

BILLING CODE 4410-09-P

APPENDIX D

[CR 000182] [SEAL U.S. Department of Justice Drug Enforcement Administration]

U.S. Department of Justice
Drug Enforcement Administration

www.dea.gov Springfield, VA 22152

Elizabeth K. Stepp
Partner
Oberheiden, P.C.
5728 Lyndon B. Johnson Fwy, #250
Dallas, Texas 75240

Re: Proposed Corrective Action Plan for Haroon Hameed, M.D. (DEA Certificate of Registration FH8064204)

Dear Elizabeth K. Stepp:

On April 28, 2022, this office received your email, submitted on behalf of Dr. Haroon Hameed, M.D., outlining a Proposed Corrective Action Plan (PCAP) prepared and submitted in accordance with 21 U.S.C. 824(c), in connection with an Order To Show Cause (OSC) issued by the Deputy Assistant Administrator on March 25, 2022.

After a careful review of your PCAP, and consistent with my obligation to ensure the public safety under the Controlled Substances Act (CSA) (21 U.S.C. 801, et. seq), I am denying the request to discontinue or defer administrative proceedings. Furthermore, I have determined there is no potential modification of your PCAP that could or would alter my decision in this regard.

The Administrator will issue the final Agency adjudication in this case. Notwithstanding this limited, preliminary determination regarding the PCAP, your

client retains all procedural and due process rights and guarantees set forth in the CSA and its attendant regulations, as well as the Administrative Procedure Act (5 U.S.C. 551, et. seq.), and is in no way precluded from seeking admission of the matters raised in the PCAP into the administrative record for consideration by the Administrator.

Sincerely,

/s/ Kristi N. O'Malley
Digitally signed by KRISTI O'MALLEY
Date: 2022.05.05 22:04:23 -04'00'
Kristi N. O'Malley
Assistant Administrator
Diversion Control Division

Request For Final Agency Action
Haroon Hameed, M.D.
Exhibit 3

APPENDIX E

[CR 000037] [SEAL U.S. Department of Justice Drug Enforcement Administration]

U.S. Department of Justice
Drug Enforcement Administration

www.dea.gov Springfield, VA 22152

IN THE MATTER OF

Haroon Hameed, M.D.
120 Sallitt Drive, Suite D
Stevensville, Maryland 21666

ORDER TO SHOW CAUSE

PURSUANT to Sections 303 and 304 of the Controlled Substances Act, Title 21, United States Code, Sections 823 and 824,

NOTICE is hereby given to afford you an opportunity to Show Cause before the Drug Enforcement Administration (DEA), at the DEA Hearing Facility, 1550 Crystal Drive, Suite 901, Arlington, Virginia 22202, or a location designated by the Administrative Law Judge, on May 24, 2022, or on such a subsequent date designated by the Administrative Law Judge (if you request such a hearing), as to why the DEA should not revoke your DEA Certificate of Registration (COR) No. FH8064204, as well as deny any applications for any other DEA registrations, pursuant to 21 U.S.C. §§ 824(a)(1) & (a)(4), because you have committed such acts as would render your continued registration inconsistent with the public interest and because you materially falsified your application for renewal of your registration.

As detailed below, this order states DEA's basis for this Order to Show Cause, including a *non-exhaustive*

summary of facts and law at issue, as well as citations to laws and regulations that you have violated (*see* 21 C.F.R. §§ 1301.36(e) and 1301.37(c), which DEA construes *in pari materia*). In order to preserve your rights in this proceeding, you may appear in these revocation proceedings by filing a notice of appearance or request for hearing in the manner prescribed by regulations within 30 days from the receipt of this Order. On or before the date of your appearance, you may submit a corrective action plan that will be considered by DEA in accordance with 21 U.S.C. § 824(c).

1. You are currently registered with the DEA as a practitioner in Schedules II through V under DEA Certificate of Registration FH8064204. Your registered address is 120 Sallitt Drive, Suite D, Stevensville, Maryland 21666. Your registration expired by its own terms on October 21, 2021. You submitted an application for renewal on November 1, 2021, which remains pending.

2. You are licensed by the Maryland State Board of Physicians (Maryland Board) as a Physician-Medical Doctor under License No. D63269. Your state medical license [CR 000038] expires by its own terms on September 30, 2022.

SELF-ABUSE OF CONTROLLED SUBSTANCES

3. On or about November 5, 2020, the Maryland Board issued an Order for Summary Suspension of License to Practice Medicine. The Maryland Board concluded that the "public health, safety, or welfare imperatively require[d]" the immediate suspension of your state medical license, based on information that you had seen patients

and performed medical procedures while under the influence of controlled dangerous substances and alcohol.

4. On November 6, 2020, the Maryland Board issued charges under the Maryland Medical Practice Act against you alleging: (1) unprofessional conduct in the practice of medicine, in violation of Md. Code Ann., Health Occ. § 14-404(a)(3)(ii); (2) professional, physical, or mental incompetence, in violation of Md. Code Ann., Health Occ. § 14-404(a)(4); (3) habitual intoxication, in violation of Md. Code Ann., Health Occ. § 14-404(a)(7); addiction to or habitual abuse of any narcotic or controlled dangerous substance, in violation of Md. Code Ann., Health Occ. § 14-404(a)(8); and (4) providing professional services while under the influence of alcohol or while abusing any narcotic or controlled dangerous substance or other drug, in violation of Md. Code Ann., Health Occ. § 14-404(a)(9).

5. On or about November 1, 2021—after an evidentiary hearing held before and a recommended decision issued by state administrative law judge—the Maryland Board issued a Final Decision and Order (Final Order) regarding your medical license. In that Final Order, the Maryland Board found, *inter alia*, that between at least October 2019 and May 2020, you routinely consumed a combination of oxycodone, a Schedule II opioid; eszopiclone, a Schedule IV sedative; and alcohol. You consumed the eszopiclone in excess of the prescribed dose. On multiple occasions, you saw patients and performed medical procedures while under the

influence of these controlled substances and/or alcohol.

6. The Maryland Board concluded that, as a result of this conduct, you: (1) were guilty of unprofessional conduct in the practice of medicine, in violation of Md. Code Ann., Health Occ. § 14-404(a)(3)(ii); (2) were habitually intoxicated, in violation of Md. Code Ann., Health Occ. § 14-404(a)(7); (3) were addicted to, or habitually abused, a controlled substance, in violation of Md. Code Ann., Health Occ. § 14-404(a)(8); and (4) provided professional services while under the influence of alcohol or while using a controlled substance, in violation of Md. Code Ann., Health Occ. § 14-404(a)(9).

7. The Maryland Board affirmed the summary suspension of your state medical license and suspended your state medical license until you completed the Maryland Professional Rehabilitation Program.

8. On or about November 30, 2021, the Maryland Board terminated your suspension, reinstated your state medical license, and placed your medical license on probation [CR 000039] for a period of three years.

9. By engaging in the self-abuse of controlled substances, and by seeing patients and performing medical procedures while under the influence of these controlled substances, you have committed acts that render your continued registration inconsistent with the public interest. Accordingly, your DEA COR should be revoked and your application for renewal should be denied. *See, e.g.*, *Brewster Drug, Inc.*,

85 Fed. Reg. 19,020 (2020); *Abbas Sina, M.D.*, 80 Fed. Reg. 53,1919 (2015); *Trenton Horst, D.O.*, 80 Fed. Reg. 41,079 (2015); *Mark Koch, D.O.*, 79 Fed. Reg. 18,714 (2014); *Ronald Lambert, D.D.S.*, 78 Fed. Reg. 62,662 (2013).

MATERIAL FALSIFICATION

10. On or about November 1, 2021, you submitted an application for renewal of your DEA registration.

11. The application asked: "Has the applicant ever been convicted of a crime in connection with controlled substance(s) under state or federal law, or been excluded or directed to be excluded from participation in a Medicare or state health care program, or [is] any such action pending?" (Liability Question 1).

12. You answered "No" to Liability Question 1.

13. This answer was materially false. As a result of the suspension of your state medical license, by letter dated June 24, 2021, you were "terminated" by the Maryland Department of Health "as a Medicaid provider for all items and services rendered, ordered, or prescribed." That termination was effective December 11, 2020.

14. The application 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?" (Liability Question 3).

15. You answered "Yes" to Liability Question 3 and stated the following regarding the nature of the incident: "I HAD MY MARYLAND LICENSE

SUSPENDED AFTER A COMPLAINT REGARDING THAT I PRESENTED TO WORK DROWSY FOR 30-45 MIN A FEW WEEKS AFTER HAVING A HIP REPLACEMENT. . . I DID NOT HAVE ANY ISSUES THAT WERE PERTINENT TO DEA LICENSURE INCLUDING IMPROPER PRESCRIBING OF CONTROLLED SUBSTANCE PRESCRIPTIONS."

16. This answer was materially false. As explained above, on or about November 5, 2020, the Maryland Board suspended your medical license based on its allegations that, *inter alia*, you had habitually abused a narcotic or controlled dangerous substance, in violation of Md. Code Ann., Health Occ. § 14-404(a)(8), and that you had provided professional services while abusing any narcotic or controlled dangerous substance, in violation of Md. Code Ann, Health Occ. § 14-404(a)(9).

[CR 000040] 17. Because your answer to Liability Questions 1 and 3 were materially false, your COR should be revoked and your application for renewal should be denied pursuant to 21 U.S.C. § 824(a)(1). *See Daniel R. Nevarre, M.D.*, 87 Fed. Reg. 3,340 (2022); *Samson K. Orusa, M.D.*, 87 Fed. Reg. 2,986 (2022); *Frank J. Stirlacci, M.D.*, 85 Fed. Reg. 45,299 (2020); *Richard J. Settles, D.O.*, 81 Fed. Reg. 64,940 (2016);

THE following procedures are available to you in this matter:

1. Within 30 days after the date of receipt of this Order to Show Cause, you may file with DEA a written request for a hearing in the form set

forth in 21 C.F.R. § 1316.47. *See* 21 C.F.R. § 1301.43(a). If you fail to file such a request, the hearing shall be cancelled in accordance with paragraph 3, below.

2. Within 30 days after the date of receipt of this Order to Show Cause, you may file with DEA a waiver of hearing together with a written statement regarding your position on the matters of fact and law involved. *See* 21 C.F.R. § 1301.43(c).

3. Should you decline to file a request for a hearing, or should you request a hearing and then fail to appear at the designated hearing, you shall be deemed to have waived the right to a hearing, and DEA may cancel such hearing and may enter a final order in this matter without a hearing based upon the evidence presented. *See* 21 C.F.R. §§ 1301.43(d) and 1301.43(e).

Requests for hearing should be filed by email with the Office of Administrative Law Judges at the following address: ECF-DEA@usdoj.gov, with a copy simultaneously provided to the Government at the following address: DEA.Registration.Litigation@usdoj.gov. Except as provided below with respect to a corrective action plan, correspondence concerning this matter, including requests referenced in paragraphs 1 and 2 above, should be addressed to the Hearing Clerk, Office of Administrative Law Judges, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152. A copy of the same shall also be served on Government counsel, John E. Beerbower, and be addressed to the Office of Chief Counsel, Diversion and Regulatory Litigation Section, 8701 Morrissette Drive,

Springfield, VA 22152. Matters are deemed filed upon receipt by the Hearing Clerk. *See* 21 C.F.R. § 1316.45.

OPPORTUNITY TO SUBMIT CORRECTIVE ACTION PLAN

In addition to the procedural options set forth in paragraphs 1 and 2 above, in accordance with 21 U.S.C. § 824(c)(2)(C), you have the opportunity to submit a corrective action plan, which must be received by the Deputy Assistant Administrator, Diversion Control Division, on or before the date of your appearance. You are not required to submit a corrective action plan, nor will any adverse inference be drawn if you choose not to do so. If you wish to submit a corrective action plan, it must be submitted directly to the Deputy Assistant Administrator, Diversion Control Division, who will decide whether, in view of the plan and the allegations set forth in this Order to Show Cause, the proceedings to revoke your registration should be discontinued, or deferred for the purposes of modification, amendment, or clarification of such [CR 000041] plan. Any corrective action plan should be clearly labeled "Corrective Action Plan" and submitted by email to Thomas W. Prevoznik at the following address: CAPresponse@usdoj.gov.

A copy of the corrective action plan shall also be served on Government counsel, John E. Beerbower, and be addressed to the Office of Chief Counsel, Diversion and Regulatory Litigation Section, 8701 Morrissette Drive, Springfield, VA 22152.

In the event you submit a corrective action plan and the Deputy Assistant Administrator decides not to discontinue or postpone the proceedings, please note that such a decision is not a final determination by the agency regarding your corrective action plan or your

registration. In such circumstances, the Administrator may nonetheless consider the corrective action plan in issuing the final order at the conclusion of the proceedings.

Finally, please be advised that the submission of a corrective action plan shall not constitute a request for a hearing under paragraph 1 above or a written statement regarding your position on the matters of fact and law involved under paragraph 2 above. As indicated, if you choose to submit a corrective action plan and also wish to proceed under paragraph 1 or 2 above, you must separately submit your request for a hearing (paragraph 1) or written statement (paragraph 2) in accordance with the instructions above.

/s/ THOMAS PREVOZNIK
Digitally signed by THOMAS PREVOZNIK
Date: 2022.03.25 17:32:15 -04'00'
Thomas W. Prevoznik
Deputy Assistant Administrator
Diversion Control Division
Drug Enforcement Administration

cc: Hearing Clerk, Office of Administrative Law Judges
John E. Beerbower, Counsel for the Government

Request For Final Agency Action
Haroon Hameed, M.D.
Attachment C

APPENDIX F

[Letterhead of Oberheiden P.C. omitted]

[CR 000183] April 28, 2022

via email: CAPresponse@usdoj.gov

Thomas W. Prevoznik
Deputy Assistant Administrator
Diversion Control Division
Drug Enforcement Administration
Springfield, Virginia 22152

RE: Haroon Hameed, M.D. – Order to Show Cause

Dear Mr. Prevoznik,

In addition to the separate written response to the Order to Show Cause ("OSC") served on him on April 1, 2022, Dr. Haroon Hameed hereby submits this corrective action plan and suggests that it is sufficient to allow you to discontinue the proceedings to revoke his DEA registration. Dr. Hameed would welcome the opportunity to discuss this plan in further detail with the DEA, including any potential modifications, amendments, or clarifications to the plan he proposes, and to defer the revocation proceedings while such discussion occurs.

As noted in the OSC, on November 30, 2021, the Maryland Board of Medicine ("Board") terminated the suspension of Dr. Hameed's medical license and placed him on probationary status for a period of three years. As part of that probation, Dr. Hameed is required to continue his participation in the Maryland Professional Rehabilitation Program ("MPRP") and comply with all requirements, referrals, and rules of that program. Such participation includes compliance with all therapy, treatments, evaluations, and screenings as directed by MPRP. Dr. Hameed's probationary

status in Maryland is for a period of at least three years and is expected to end on November 30, 2024.

Dr. Hameed's rehabilitation plan with MPRP requires that he abstain from alcohol and all other mood-altering substances, and that he engage in the MPRP's forensic chain-of-custody, split-sample, random, and rigorous toxicology monitoring. The toxicology monitoring process requires daily check-in and utilizes medical professional panels with multiple types of specimens, including urine, saliva, hair, nail, and blood testing, as well as daily breathalyzer testing with a mobile, cellular device that provides Dr. Hameed multiple testing prompts throughout the day. Dr. Hameed's rehabilitation plan also includes regular, ongoing communication with his treating providers, vocational monitoring in any setting in which he may practice, and monthly face-to-face meetings with MPRP's clinical staff. A letter from the MPRP program director outlining this program and a copy of the Board's order containing the terms of Dr. Hameed's probationary status are attached to this letter as Exhibits A and B, respectively.

[CR 000184] Dr. Hameed proposes that his continued compliance with the MPRP rehabilitation plan be accepted as a corrective action plan by the DEA, including any monitoring or reporting the DEA requests from MPRP. He proposes that such corrective action plan remain in place through November 30, 2024, or until the Board terminates his probationary status.

If you have any questions or would like to discuss this proposal further, please let me know.

Best regards,

/s/ Elizabeth K. Stepp
Elizabeth K. Stepp
Oberheiden, P.C.

Attachments

APPENDIX G

21 U.S.C. § 823. Registration requirements

* * *

(g) Research by practitioners; pharmacies; research applications; construction of Article 7 of the Convention on Psychotropic Substances

(1) The Attorney General shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense, or conduct research with, controlled substances in schedule II, III, IV, or V and shall modify the registrations of pharmacies so registered to authorize them to dispense controlled substances by means of the Internet, if the applicant is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the State in which he practices. The Attorney General may deny an application for such registration or such modification of registration if the Attorney General determines that the issuance of such registration or modification would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(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.

Separate registration under this part for practitioners engaging in research with controlled substances in schedule II, III, IV, or V, who are already registered under this part in another capacity, shall not be required.

* * *

21 U.S.C. § 824. Denial, revocation, or suspension of registration

(a) Grounds

A registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance or a list I chemical may be suspended or revoked by the Attorney General upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this subchapter or subchapter II;

(2) has been convicted of a felony under this subchapter or subchapter II or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance or a list I chemical;

(3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or list I chemicals or has had the sus-pension, revocation, or denial of his registration recommended by competent State authority;

(4) has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of title 42.

A registration pursuant to section 823(h)(1)1 of this title to dispense a narcotic drug for maintenance

treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 823(h)(1)1 of this title.

* * *

(c) Service of show cause order; proceedings

(1) Before taking action pursuant to this section, or pursuant to a denial of registration under section 823 of this title, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended.

(2) An order to show cause under paragraph (1) shall—

(A) contain a statement of the basis for the denial, revocation, or suspension, including specific citations to any laws or regulations alleged to be violated by the applicant or registrant;

(B) direct the applicant or registrant to appear before the Attorney General at a time and place stated in the order, but not less than 30 days after the date of receipt of the order; and

(C) notify the applicant or registrant of the opportunity to submit a corrective action plan on or before the date of appearance.

(3) Upon review of any corrective action plan submitted by an applicant or registrant pursuant to paragraph (2), the Attorney General shall determine whether denial, revocation, or suspension proceedings should be discontinued, or deferred for the purposes of modification, amendment, or clarification to such plan.

hall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

(5) The requirements of this subsection shall not apply to the issuance of an immediate suspension order under subsection (d).

(d) Suspension of registration in cases of imminent danger

(1) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. A failure to comply with a standard referred to in section 823(h)(1)1 of this title may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. A suspension under this subsection shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

(2) In this subsection, the phrase "imminent danger to the public health or safety" means that, due to the failure of the registrant to maintain effective controls against diversion or otherwise comply with the obligations of a registrant under this subchapter or subchapter II, there is a substantial likelihood of an immediate threat that death, serious bodily harm, or abuse of a controlled substance will occur

in the absence of an immediate suspension of the registration.

* * *

5 U.S.C. § 555. Ancillary matters

* * *

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceeding. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

5 U.S.C. § 706. Scope of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

21 C.F.R. § 1301.43 Request for hearing or appearance; waiver. (2022) (as in effect April 2022)

(a) Any person entitled to a hearing pursuant to § 1301.32 or §§ 1301.34–1301.36 and desiring a hearing shall, within 30 days after the date of receipt of the order to show cause (or the date of publication of notice of the application for registration in the FEDERAL REGISTER in the case of § 1301.34), file with the Administrator a written request for a hearing in the form prescribed in § 1316.47 of this chapter.

(b) Any person entitled to participate in a hearing pursuant to § 1301.34 or § 1301.35(b) and desiring to do so shall, within 30 days of the date of publication of notice of the request for a hearing in the FEDERAL REGISTER, file with the Administrator a written notice of intent to participate in such hearing in the form prescribed in §1316.48 of this chapter. Any person filing a request for a hearing need not also file a notice of appearance.

(c) Any person entitled to a hearing or to participate in a hearing pursuant to § 1301.32 or §§ 1301.34–1301.36 may, within the period permitted for filing a request for a hearing or a notice of appearance, file with the Administrator a waiver of an opportunity for a hearing or to participate in a hearing, together with a written statement regarding such person's position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(d) If any person entitled to a hearing or to participate in a hearing pursuant to § 1301.32 or §§ 1301.34–1301.36 fails to file a request for a hearing or a notice of appearance, or if such person so files and fails to appear at the hearing, such person shall be deemed to have waived the opportunity for a hearing or to participate in the hearing, unless such person shows good cause for such failure.

(e) If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Administrator may cancel the hearing, if scheduled, and issue his/ her final order pursuant to § 1301.46 without a hearing.