

registration . . . , it is reasonable to conclude that information regarding an applicant's mandatory exclusion by HHS would be 'capable of influencing the [DEA's] decision.' " R.D., at 13 (citations omitted). I agree with the ALJ. I find that Respondent's failure to disclose his mandatory exclusion from a Federal health care program is material. *Id.* Thus, I find that there is substantial evidence in the record that Respondent materially falsified a DEA registration application and a DEA registration renewal application concerning his mandatory exclusion. 21 U.S.C. 824(a)(1).

The Allegation of Mandatory Exclusion From a Federal Health Care Program

Pursuant to 21 U.S.C. 824(a)(5), the Attorney General may suspend or revoke a registration issued under section 823 of Title 21, "upon a finding that the registrant . . . has been excluded . . . from participation in a program pursuant to section 1320a-7(a) of Title 42." Agency precedent makes clear that revocation under 21 U.S.C. 824(a)(5) may be appropriate regardless of whether or not the misconduct that led to the mandatory exclusion involved controlled substances. *KK Pharmacy*, 64 FR 49,507, 49,510 (1999) (collecting cases) (The Agency "has previously held that misconduct which does not involve controlled substances may constitute grounds, under 21 U.S.C. 824(a)(5), for the revocation of a DEA Certificate of Registration."); *Melvin N. Seglin, M.D.*, 63 FR 70,431, 70,433 (1998) ("[M]isconduct which does not involve controlled substances may constitute grounds for the revocation of a DEA registration pursuant to 21 U.S.C. 824(a)(5)."); *Stanley Dubin, D.D.S.*, 61 FR 60,727, 60,728 (1996) (Registration revoked and pending applications for renewal denied when registrant's "actions cast substantial doubt on . . . [his] integrity."); *George D. Osafo, M.D.*, 58 FR 37,508, 37,509 (1993) (Submission of fraudulent medical claims and larceny convictions indicated that registrant "placed monetary gain above the welfare of his patients, and in so doing, endangered the public health and safety.").

Under 42 U.S.C. 1320a-7(a)(1), the HHS OIG is required to exclude from participation in any Federal health care program any individual who has been convicted of a criminal offense "related to the delivery of an item or service under . . . [42 U.S.C. 1395 *et seq.*] or under any State health care program." Based on the uncontroverted evidence in the record, as already discussed, I found that Respondent has been excluded from participation in any

capacity in Medicare, Medicaid, and all Federal health care programs and that Respondent is still excluded from participation in these programs. Accordingly, I find that the evidence in the record satisfies the Government's *prima facie* burden to support the revocation of Respondent's registration under 21 U.S.C. 824(a)(5).

Sanction

Where, as here, the Government has met its *prima facie* burden, the burden shifts to Respondent to show why he can be entrusted with a registration. Respondent, however, did not submit evidence for the record. Instead, he stated that the documents are self-explanatory, that he "will not make any statement regarding this administrative action," and that "[t]he issue is hereby submitted for final ruling." R.D., at 7. Thus, the question now is whether revocation is the appropriate sanction under the facts I have found: Two separate violations whose statutory sanctions include revocation. 21 U.S.C. 824(a)(1) and (5).

I agree with the ALJ's analysis and conclude that revocation is independently the appropriate sanction for each of the separate violations the facts support. In particular, I agree with the ALJ's analysis that, even though the underlying misconduct which led to Respondent's conviction and mandatory exclusion did not involve controlled substances, it did involve the unlawful use of Respondent's prescribing authority. R.D., at 17. As the ALJ stated, "This type of fraudulent behavior does not inspire confidence that . . . [Respondent] can be trusted with a prescription pad bearing a DEA registration number." *Id.* After all, if Respondent signed blank certificates of medical necessity for durable medical equipment that was not medically necessary, "it is doubtful that DEA can expect . . . [Respondent] to honestly prescribe controlled substances for only legitimate medical purposes." *Id.*

Further, Respondent materially falsified two DEA applications. One such falsification, alone, is sufficient, without proof of any other misconduct, to revoke a registration. *Toret, supra*, 82 FR at 60,043. As the ALJ stated, "[N]ot only has the Government proven two independent bases for revoking . . . [Respondent's] registration . . . , but . . . [Respondent] has not advanced any evidence that he 'can be trusted to responsibly discharge his obligations as a registrant.'" R.D., at 17-18 (citation omitted).

Accordingly, based on the evidence in the record supporting two independent bases for revocation, I shall order that

Respondent's DEA registration be revoked and that any pending application of Respondent to renew or to modify that registration be denied.

Order

Pursuant to 28 CFR 0.100(b) and the authority thus vested in me by 21 U.S.C. 824(a), I order that DEA Certificate of Registration No. FR4900305 issued to Narciso A. Reyes, M.D., be, and it hereby is, revoked. Pursuant to 28 CFR 0.100(b) and the authority thus vested in me by 21 U.S.C. 823(f), I further order that any pending application of Narciso A. Reyes, M.D., to renew or to modify this registration, be, and it hereby is, denied. This Order is effective December 31, 2018.

Dated: November 19, 2018.

Uttam Dhillon,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1752]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Department of Justice.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention announces its next meeting.

DATES: Wednesday, December 19, 2018 at 10 a.m. EST.

ADDRESSES: The meeting will take place in the third floor main conference room at the U.S. Department of Justice, Office of Justice Programs, 810 7th St. NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Visit the website for the Coordinating Council at www.juvenilecouncil.gov or contact Jeff Slowikowski, Designated Federal Official (DFO), OJJDP, by telephone at (202) 616-3646, email at jeff.slowikowski@usdoj.gov, or fax at (202) 353-9093; or Sarah Wisniewski, Senior Program Manager/Federal Contractor, by telephone (202) 305-9017, email at sarah.wisniewski@usdoj.gov, or fax at (866) 854-6619. Please note that the above phone/fax numbers are not toll free.

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention

("Council"), established by statute in the Juvenile and Delinquency Prevention Act of 1974 section 206(a) (42 U.S.C. 5616(a)), will meet to carry out its advisory functions. Information regarding this meeting will be available on the Council's web page at www.juvenilecouncil.gov. The meeting is open to the public, and available via online video conference, but prior registration is required (see below). In addition, meeting documents will be viewable via this website including meeting announcements, agendas, minutes and reports.

Although designated agency representatives may attend in lieu of members, the Council's formal membership consists of the following secretaries and/or agency officials; Attorney General (Chair), Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), Secretary of Health and Human Services (HHS), Secretary of Labor (DOL), Secretary of Education (DOE), Secretary of Housing and Urban Development (HUD), Director of the Office of National Drug Control Policy, Chief Executive Officer of the Corporation for National and Community Service and the Assistant Secretary of Homeland Security for the U.S. Immigration and Customs Enforcement. Nine additional members are appointed by the Speaker of the U.S. House of Representatives, the U.S. Senate Majority Leader and the President of the United States. Further agencies that take part in Council activities include, the Departments of Agriculture, Defense, Interior and the Substance and Mental Health Services Administration of HHS.

Council meeting agendas are available on www.juvenilecouncil.gov. Agendas will generally include: (a) Opening remarks and introductions; (b) Presentations and discussion of agency work; and (c) Council member announcements.

For security purposes and because space is limited, members of the public who wish to attend must register in advance of the meeting online at www.juvenilecouncil.gov, no later than Friday December 14, 2018. Should issues arise with online registration, or to register by fax or email, the public should contact Sarah Wisniewski, Senior Program Manager/Federal Contractor (see above for contact information). If submitting registrations via fax or email, attendees should include all of the following: Name, Title, Organization/Affiliation, Full Address, Phone Number, Fax and Email. The meeting will also be available to join online via Webex, a video conferencing platform. Registration for

this is also found online at www.juvenilecouncil.gov.

Note: Photo identification will be required to attend the meeting at the OJP 810 7th Street Building.

Interested parties may submit written comments and questions in advance to Jeff Slowikowski (DFO) for the Council, at the contact information above. If faxing, please follow up with Sarah Wisniewski, Senior Program Manager/Federal Contractor (contact information above) in order to assure receipt of submissions. All comments and questions should be submitted no later than 5:00 p.m. EST on Friday December 14, 2018. The Council will limit public statements if they are found to be duplicative. Written questions submitted by the public while in attendance will also be considered by the Council.

Jeffrey Slowikowski,
Senior Advisor, Office of Juvenile Justice and Delinquency Prevention.

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DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Form ETA-9142-B-CAA-2, Attestation for Employers Seeking To Employ H-2B Nonimmigrant Workers Under Section 205 of Division M of the Consolidated Appropriations Act, 2018 Public Law 115-141

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL or Department) is submitting the Employment and Training Administration (ETA) sponsored Information Collection Request (ICR), titled, "Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 205 of Division M of the Consolidated Appropriations Act, 2018 Public Law 115-141 (March 23, 2018)," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments it receives on or before December 31, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely

respondents, proposed frequency of response, and estimated total burden, may be obtained free of charge from the *RegInfo.gov* website at: http://www.reginfo.gov/public/do/PRAViewICR?ref_201811-1205-003 (this link will only become active on the day following publication of this notice); by contacting Michel Smyth at 202-693-4129/TTY 202-693-8064 (these are not toll-free numbers); or by sending an email to: DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202-395-6881 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT:

Michel Smyth by telephone at 202-693-4129/TTY 202-693-8064 (these are not toll-free numbers) or by sending an email to: DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Attestation for Employers Seeking to Employ H-2B Nonimmigrant Workers Under Section 205 of Division M of the Consolidated Appropriations Act, 2018 Public Law 115-141 (March 23, 2018) information collection. On March 23, 2018, the President signed the Consolidated Appropriations Act, 2018. Division M, Section 205 of the Act authorized the Secretary of Homeland Security, in consultation with the Secretary of Labor, to increase the number of H-2B visas available to U.S. employers, notwithstanding the otherwise established statutory numerical limitation. This collection of information was required by the regulations that went into effect on May 31, 2018, implementing Section 205. The Secretary of Homeland Security increased the H-2B cap for Fiscal Year 2018 by up to 15,000 additional visas for American businesses that were likely to suffer irreparable harm (that is, permanent and severe financial loss) without the ability to employ before the end of FY 2018 the H-2B workers requested on their petition.