Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol [ethylene glycol dinitrate, EGDN].
Nitroguanidine explosives.
Nitronium perchlorate propellant mixtures.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrotriazolone [3-nitro-1,2,4-triazol-5-one].
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [plastic bonded explosives].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate explosives.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (manufactured as an explosive).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.
Pyrotechnic compositions.
Pyrotechnic fuses.
PYX [2,6-bis(picrylamino)] 3,5-dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Salutes (bulk).
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium azide explosive mixture.
Sodium dinitro-ortho-cresolate.
Sodium nitrate explosive mixtures.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].
TATB [triaminotrinitrobenzene].
TATP [triacetonetriperoxide].
TEGDN [triethylene glycol dinitrate].
Tetranitrocarbazole.
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetrazole explosives.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN [trimethylolethane trinitrate].
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethylorthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzenesulfonic acid [picryl sulfonic acid].
Trinitrobenzoic acid.
Trinitrocresol.
Trinitrofluorenone.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water-bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).
Water-in-oil emulsion explosive compositions.

X

Xanthomonas hydrophilic colloid explosive mixture.

Dated: December 12, 2022.

Steven M. Dettelbach,

Director.

[FR Doc. 2022–27630 Filed 12–19–22; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 22–5]

Jennings Staley, M.D.; Decision and Order

On October 8, 2021, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Jennings Staley, M.D., (Respondent) of California,[1] alleging that Respondent ''committed such acts that would render [his] registration inconsistent with the public interest.'' OSC, at 2 (citing 21 U.S.C. 823(f) and 824(a)(4)).

A hearing was held before DEA Administrative Law Judge Paul E. Soeffing (the ALJ) who, on June 10, 2022, issued his Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision (RD).[2] [3] Having reviewed

[1] The Government sought to revoke Respondent's Certificates of Registration Nos. FS8992794 (909 Prospect Street, Suite 100C, La Jolla, CA 92037), FS7111519 (31888 Del Obispo Street, Suite C2, San Juan Capistrano, CA 92675), FS7522508 (420 Palladio Parkway, Suite 123, Folsom, CA 95630), FS4937922 (5016 Chesebro Road, Suite 210, Agoura Hills, CA 91301), and FS7568718 (23600 Rockfield Boulevard, Suite 2N, Lake Forest, CA 92630) and sought to deny Respondent's pending applications for new DEA Registrations Control Nos. W21025364C (24251 Town Center Drive, Suite 175, Valencia, CA 91355) and W21018406C (corrected) (13728 Hesperia Rd., Suite 7, Victorville, CA 92395). OSC, at 1–2.

[2] The RD, which is summarized herein, found in favor of the Government and neither party filed exceptions.

[3] After the RD was issued, but before the deadline for filing exceptions had passed, Respondent notified the ALJ that he voluntarily surrendered his five DEA Certificates of Registration, but that the

the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, credibility findings,[4] findings of fact, conclusions of law, sanctions analysis, and recommended sanction found in the RD.

I. Findings of Fact

The material facts in this case are narrow and undisputed. At the start of the COVID–19 pandemic, Respondent began a ''concierge medicine program'' providing telemedicine, home visits, and delivery of COVID–19 medication packages to people at risk of developing COVID–19. Tr. 92, 180; *see also Id.* at 93–96, 106, 181, 185, 192. In April 2020, an undercover FBI agent (UC) asked for six COVID–19 medication packages for himself and his family. Government Exhibit (GX) 8, at 2–3. At that point, Respondent, unsolicited, offered to dispense Xanax[5] to UC. *Id.* at 4–5 (''Resp: And then you need any Xanax? UC: Yeah, um why not? Yeah, I mean sounds great.''). Respondent testified that he offered to dispense Xanax ''as a courtesy'' because UC seemed anxious. Tr. 143. UC later told Respondent's wife that he had talked to Respondent, that he was approved for the concierge medical program, and that Respondent had said that he could have Xanax.[6] Tr. 172. Respondent's wife then packaged the order, including the Xanax, and shipped it to UC's home. *Id.* at 172–73. Respondent testified that he believed he had no further conversations with UC after the Xanax shipped. *Id.* at 35–41, 173, 187, 207; GX 8, 10, 11, 12. Respondent admitted that he had not completed a medical evaluation nor diagnosed[7] UC with a condition that would warrant dispensing Xanax, but still provided UC with the Xanax. *Id.; see also,* GX 10.[8]

II. Discussion

The Government has the burden of proving that the requirements for revocation of a DEA registration in 21 U.S.C. 824(a) are satisfied. 21 CFR 1301.44(e). Having reviewed the record, the Agency agrees with the RD that the Government has proven by substantial evidence that Respondent committed acts which render his continued registration inconsistent with the public interest. RD, at 12–18, 22. Specifically, the Agency agrees with the RD that the record established multiple instances where Respondent failed to comply with applicable federal and state law and dispensed controlled substances in a manner inconsistent with the public interest.

DEA regulations require that for a prescription for a controlled substance to be effective, it must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice. 21 CFR 1306.04(a). CA Bus. & Prof. Code § 2242(a) prohibits prescribing or dispensing[9] dangerous drugs[10] absent an appropriate physical exam and medical indication. Here, Respondent admitted that he mailed Xanax, a ''dangerous drug'' under California law, to UC without conducting any physical examination or diagnosing UC ''with any condition that would warrant taking [Xanax].'' Tr. 207; *see also* CA Bus. & Prof. Code § 4022. This admitted conduct clearly violated California law and rendered Respondent's dispensing outside the usual course of professional practice. Furthermore, DEA regulations state that a practitioner may only provide Schedule IV controlled substances to a patient without a prescription where the practitioner administers or dispenses the controlled substance directly to the patient. 21 CFR 1306.21(b). Here, the record evidence shows that Respondent violated 21 CFR 1306.21(b) because he neither issued a valid prescription for nor directly dispensed the Xanax pills that he mailed to UC. *See supra* n.6.

Accordingly, the Agency agrees with the RD that the Government has established by substantial evidence that Respondent issued Xanax to Respondent in violation of CA Bus. & Prof. Code § 2242, and 21 CFR 1306.04(a) and 1306.21(b). RD, 17–18. As such, the Agency finds that Respondent's continued registration is inconsistent with the public interest and, thus, that the Government has established a *prima facie* case for revocation and denial. *Id.*

III. Sanction

Here, the Government has established grounds to revoke Respondent's registration, so the burden shifts to Respondent to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.,* 83 FR 18,882, 18,910 (2018). When a registrant has committed acts inconsistent with the public interest, he must both accept responsibility and demonstrate that he has undertaken corrective measures. *Holiday CVS, L.L.C., dba CVS Pharmacy Nos 219 and 5195,* 77 FR 62,316, 62,339 (2012).

Here, Respondent has failed to unequivocally accept responsibility. *See* RD, at 19–20. Instead, Respondent justified his conduct and even attempted, unsuccessfully, to establish that his shipping of Xanax to UC was proper.[11] *Id.* at 19–20. Respondent's misconduct was also egregious.[12] *See*

two applications were still pending. *See* Notice of Surrender dated June 30, 2022. Where a registration is terminated pursuant to 21 CFR 1301.52 after an ALJ has transmitted a recommended decision for final agency action (or, as here, after the ALJ had made all of the findings and recommendations), the Agency determines, on a case-by-case basis, if a final adjudication is warranted or if the matter should be dismissed. *See Steven M. Kotsonis, M.D.,* 85 FR 85,667, 85,668–69 (2020); *The Pharmacy Place,* 86 FR 21,008 (2021); *Creekbend Community Pharmacy,* 86 FR 40,627 n.4 (2021). Here, the Agency will continue to adjudicate this case because the final official record of the allegations, the evidence, and the final agency decision will all support the Agency's future interactions with Respondent; further, adjudication is necessary to address the two pending applications. *See Cypress Creek Pharmacy LLC,* 86 FR 71,927 n.2 (2021) (citing *Lawrence E. Stewart, M.D.,* 86 FR 15,257 (2021)).

[4] The Agency agrees that the assigned DEA Diversion Investigator's (DI) testimony was credible; Respondent's testimony was not fully credible and at times irrelevant, conflicting, and defensive; and Amanda Staley's (Respondent's wife and medical assistant) testimony was largely irrelevant. RD, at 4, 10, 12.

[5] The parties stipulated that Xanax is a brand name for alprazolam, a Schedule IV controlled substance. RD, at 2.

[6] DI testified that during the course of his investigation, he did not become ''aware of any prescription that was written by [Respondent] for this medication,'' *id.* at 51, nor has Respondent argued that there was a prescription for the Xanax. *See* Resp Posthearing, at 8.

[7] When asked, ''Had you diagnosed patient BM with any condition that would warrant taking alprazolam?'' Tr. 207, Respondent answered, ''No sir. I had not done a medical evaluation on patient BM.'' *Id.* Respondent then answered ''Yes,'' to the question ''but you nonetheless provided him with alprazolam, correct?'' *Id.* at 207–08.

[8] On July 21, 2021, Respondent entered a guilty plea in the United States District Court for the Southern District of California for violating 18 U.S.C. 541, wherein he admitted that he ''offered [UC] Viagra and Xanax without collecting any medical information about the undercover agent or the agent's purported family members . . . and his staff then mailed six treatment packs to the undercover agent, which included . . . Xanax . . . .'' GX 10, at 4.

[9] California law defines the term ''dispense'' to mean ''the furnishing of drugs or devices upon a prescription from a physician . . .'' and states that ''[f]urnish means to supply by any means, by sale or otherwise.'' CA Bus. & Prof. Code §§ 4024, 4026.

[10] CA Bus. & Prof. Code § 4022 defines the term ''dangerous drug'' to ''mean any drug . . . that bears the legend . . . ''Rx only'' . . . [or] that by federal or state law can be lawfully dispensed only on prescription.'' Here, the alprazolam bottle that Respondent mailed to UC contained the marking ''RX Only.'' GX 9.

[11] The Respondent even seemed incredulous that DEA was pursuing this matter. *See* RD, at 19–20 (citing Tr. 75–76). Moreover, when a registrant fails to make the threshold 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). Even so, here, ''Respondent made no showing of any remedial measures he has undertaken.'' RD, at 20.

[12] Respondent argued that his misconduct was not egregious enough to support revocation because the Government only established ''a single incident, involving an anti-anxiety medication which is not prone to abuse or overdose,'' and pointed out that he did not profit from shipping the Xanax. Resp

Continued

Garrett Howard Smith, M.D., 83 FR at 18,910 (collecting cases). Respondent, unsolicited, offered free Xanax to UC and then shipped it for UC and his whole family to use [13] without a prior medical examination or valid prescription. GX 8, at 4. This conduct lacks even a veneer of a legitimate medical purpose and is more closely aligned with that of a drug dealer than that of a doctor. Any sanction less than revocation would send a message to the current and prospective registrant community that serious violations of the core principals of the CSA will not result in revocation, so long as the violation represents only a single incident. *See Daniel A. Glick, D.D.S.,* 80 FR 74,800, 74,810 (2015).

Having reviewed the record in its entirety, the Agency finds that Respondent cannot be entrusted with a DEA registration and orders that his registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificates of Registration Nos. FS8992794, FS7111519, FS7522508, FS4937922, and FS7568718 issued to Jennings Staley, M.D. Further, pursuant to 28 CFR 0.100(b) and 21 U.S.C. 823(f), I hereby deny any pending applications for renewal or modification of these registrations, deny Respondent's applications for new DEA Registrations Control Nos. W21025364C and W21018406C, and deny any other pending application of Jennings Staley, M.D., for registration in California. This order is effective January 19, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 12, 2022, by Administrator Anne Milgram. 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. 2022–27480 Filed 12–19–22; 8:45 am]

BILLING CODE 4410–09–P

Posthearing, at 7. The Agency disagrees and finds that Respondent's blatant disregard for the laws relating to controlled substances warrants a sanction.

[13] Respondent testified that though the Xanax was only dispensed in UC's name, it was for all ''eligible members of the family . . . him, his wife, his [father-in-law], and in an unusual situation, possibly a child.'' Tr. 214–15.

DEPARTMENT OF JUSTICE

[Docket No. JMD 156]

Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: Pursuant to Section 70913(a) of the Infrastructure Investment and Jobs Act and consistent with OMB Memorandum 22–08, *Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act,* Federal entities are required to provide the Office of Management and Budget (OMB) and Congress a report listing all Federal financial assistance programs for infrastructure administered by the agency. This report is required to be published in the **Federal Register**. The Department of Justice has prepared the report provided below regarding its financial assistance programs that provide funding that may be used by recipients for infrastructure projects.

FOR FURTHER INFORMATION CONTACT: For further information about these programs, contact Tara M. Jamison, Director, Office of Acquisition Management, Justice Management Division, 145 N Street NE, Room 8W.210, Washington, DC 20530, (202) 616–3754 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

1. Introduction

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (''IIJA''), which includes the ''Build America, Buy America Act'' (the Act). This Act ensures that Federal infrastructure programs require the use of materials produced in the United States, increases the requirement for American-made content, and strengthens the waiver process associated with Buy America provisions. The Act requires that within 60 days of its enactment, January 14, 2022, each agency must submit to the Office of Management and Budget (OMB) and Congress and publish in the **Federal Register** a report (''60-day report'') listing all Federal financial assistance programs for infrastructure administered by the agency.

2. Financial Assistance Programs for Infrastructure

There are three components within the Department of Justice (DOJ) responsible for Federal financial assistance programs: the Office of Justice Programs (OJP); the Office on Violence Against Women (OVW); and the Office of Community Oriented Policing Services (COPS Office).

This report reflects an initial identification of each Federal financial assistance program for infrastructure administered by these offices and an analysis of associated domestic content procurement preferences applicable to the Federal financial assistance. This initial analysis is based on the agency's current understanding of information contained in the law and the imminent timing requirements for reporting. This initial analysis is subject to change upon further evaluation. In FY 2022, the following programs for which at least part of the funding may potentially be used for a ''project'' for ''infrastructure'' as those terms are defined by IIJA and OMB M–22–08 have been identified.

2.1 OJP's 16.596 Tribal Justice Systems Infrastructure Program (TJSIP), which is Purpose Area 4 under the Coordinated Tribal Assistance Solicitation (CTAS), assists tribes in developing effective strategies to cost effectively renovate, expand, or replace existing facilities associated with the incarceration and rehabilitation of juvenile and adult justice-involved individuals subject to tribal jurisdiction. Generally, the types of projects funded under this program do not entail ''infrastructure'' on the scale contemplated by the IIJA or OMB M–22–08; however, it remains possible that projects of that scope, scale and nature could be funded in the future. Pursuant to OMB M–22–08, before applying any Buy America preferences to this program, which will directly affect Tribal communities, OJP is obligated to follow the consultation policies established through Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments,* and consistent with policies set forth in the Presidential Memorandum of January 26, 2021, on *Tribal Consultation and Strengthening Nation-to-Nation Relationships* to the extent necessary to address the exceptional type of infrastructure project described above.

2.2 OJP's 16.753 Byrne Discretionary Community Project Funding distributes