interest in balancing the factors of 21 U.S.C. 823(f).[18]

III. Sanction

Where, as here, the Government has established grounds to revoke Registrant's registration and deny Registrant's application, the burden shifts to the registrant to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.,* 83 FR 18882, 18910 (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 62316, 62339 (2012) (internal quotations omitted). Trust is necessarily a fact-dependent determination based on individual circumstances; therefore, the Agency looks at factors such as the acceptance of responsibility, the credibility of that acceptance as it relates to the probability of repeat violations or behavior, the nature of the misconduct that forms the basis for sanction, and the Agency's interest in deterring similar acts. *See, e.g., Robert Wayne Locklear, M.D.,* 86 FR 33738, 33746 (2021).

Here, Registrant has failed to accept responsibility, arguing that he ''did nothing wrong intentionally or otherwise,'' and repeatedly insisting that J.L. was to blame for the improper prescriptions at issue because she was the ''criminal mind and the criminal muscle.'' RFAAX 16, at 2–9. Even if J.L. did improperly issue the prescriptions in question, Registrant failed to admit any fault for allowing her to improperly use his registration which, as its holder, Registrant would be ultimately responsible for. Further, Registrant did not address, let alone accept responsibility for, any of his numerous dispensing violations. As such, Registrant has failed to establish that he unequivocally accepts responsibility such that the Agency can entrust him with registration.

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); *Daniel A. Glick, D.D.S.,* 80 FR 74800, 74801, 74810 (2015). Even so, Registrant has not offered adequate remedial measures to assure the Agency that he can be entrusted with registration. *See Carol Hippenmeyer, M.D.,* 86 FR 33748, 33773 (2021). Here, although Registrant offered to ''keep [his] prescription pads locked under [his] control'' and to take other measures to ensure that nobody else would be able to use his registration, he did not offer a plan to address the numerous dispensing violations nor to ensure his future compliance with federal and state law regarding the dispensing of controlled substances. RFAAX 15, at 1–2; RFAAX 16, at 2.

In addition to acceptance of responsibility, the Agency looks to the egregiousness and extent of the misconduct, *Garrett Howard Smith, M.D.,* 83 FR at 18910 (collecting cases), and considers both specific and general deterrence when determining an appropriate sanction. *Daniel A. Glick, D.D.S.,* 80 FR at 74810. Here, the record contains substantial evidence that Registrant improperly issued at least 33 prescriptions for controlled substances to at least three different patients beneath the applicable standard of care and outside the usual course of professional practice and committed numerous violations of federal and state law. As such, revocation of Registrant's registration and denial of Registrant's application would deter Registrant and the general registrant community from the improper prescribing of controlled substances as well as from ignoring their obligations to comply with federal and state laws regarding the dispensing of controlled substances.

In sum, there is simply no evidence that Registrant's behavior is unlikely to recur in the future such that the Agency can entrust him with a CSA registration, and when considered with the scope of Registrant's misconduct as well as considerations of deterrence, the balance of factors weighs in favor of revocation and denial as sanctions. Accordingly, the Agency will order the revocation of Registrant's registration and the denial of Registrant's application.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f) and 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BA2668183 issued to Sualeh Ashraf, M.D., deny the pending application for a DEA Certificate of Registration No. W21001036C submitted by Sualeh Ashraf, M.D., and deny any other pending applications submitted by Sualeh Ashraf, M.D in Florida. This Order is effective February 6, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 27, 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.

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[18] Regarding Registrant's claim in his ''Corrective Action Plan'' document that he did not issue the controlled substance prescriptions in question and that, rather, it was J.L. who improperly issued them to herself and her family members using Registrant's registration, the Agency has long held that a registrant is liable for the misuse of his registration by any person to whom he entrusts his registration. *See Kevin Dennis, M.D.,* 78 FR 52787, 52799 (2013) (collecting cases). During his interview with the Polk County Sheriff's Office conducted on June 12, 2018, Registrant admitted to leaving pre-signed prescription pads with J.L. for her to use his registration and stated that he and J.L. ''[had] the trust.'' RFAAX 12, at 15–18. Thus, even if it is true that J.L. was the one who misused Registrant's registration, Registrant bears responsibility for her misuse because he entrusted her with his registration. *See Brian Thomas Nichol, M.D.,* 83 FR 47352, 47363 (2018) (collecting cases); *see also supra* n.11.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Valerie L. Augustus, M.D.; Decision and Order

On August 5, 2022, the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause (hereinafter, OSC) to Valerie L. Augustus, M.D. (hereinafter, Registrant). Request for Final Agency Action (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 1 (OSC), at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. FA8056043 at the registered address of 2205 West Street, Germantown, TN 38138. *Id.* at 1. The OSC alleged that Registrant's registration should be revoked because Registrant is ''without authority to handle controlled substances in the State of Tennessee, the state in which [she is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by

the Government in its RFAA,[1] which was received on December 5, 2022.[2]

Findings of Fact

On July 21, 2021, the Tennessee Board of Medical Examiners issued a Final Order suspending Registrant's Tennessee medical license. RFAAX 2, at 5, 8, 11.

According to Tennessee's online records, of which the Agency takes official notice, Registrant's license is still suspended.[3] Tennessee Department of Health License Verification, *https://apps.health.tn.gov/Licensure/default.aspx* (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to engage in the practice of medicine in Tennessee, the state in which she is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27616, 27617 (1978).[4]

According to Tennessee statute, ''dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Tenn. Code Ann. § 39–17–402(7) (2022). Further, a ''practitioner'' means ''a physician . . . or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.'' *Id.* at § 39–17–402(23)(A).

Here, the undisputed evidence in the record is that Registrant lacks authority to practice medicine in Tennessee. As discussed above, a physician must be a licensed practitioner to dispense a controlled substance in Tennessee. Thus, because Registrant lacks authority to practice medicine in Tennessee and, therefore, is not authorized to handle controlled substances in Tennessee, Registrant is not eligible to maintain a DEA registration. Accordingly, the Agency will order that Registrant's DEA 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 Certificate of Registration No. FA8056043 issued to Valerie L. Augustus, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending applications of Valerie L. Augustus, M.D., to renew or modify this registration, as well as any other pending application of Valerie L. Augustus, M.D., for additional registration in Tennessee. This Order is effective February 6, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on December 27, 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.

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BILLING CODE 4410–09–P

[1] The Government's RFAA is dated November 15, 2022. RFAA, at 5.

[2] Based on a Declaration from a DEA Diversion Investigator, the Agency finds that the Government's service of the OSC on Registrant was adequate. RFAAX 2, 2. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC and Registrant has neither requested a hearing nor submitted a written statement or corrective action plan and therefore has waived any such rights. RFAA, at 2; *see also* 21 CFR 1301.43 and 21 U.S.C. 824(c)(2).

[3] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.gov.*

[4] This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.,* 53 FR 11919, 11920 (1988); *Frederick Marsh Blanton,* 43 FR at 27617.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Sohail Mamdani, M.D.; Decision and Order

I. Introduction

On July 8, 2021, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Sohail Mamdani, M.D. (Respondent), of Los Banos, California. Request for Final Agency Action (RFAA) Exhibit No. (RFAAX) 13, at 1, 8.[1] The OSC proposes the revocation of Respondent's DEA Registration No. FM2871564, pursuant to 21 U.S.C. 824(a)(4) and 823(f). *Id.* at 1. The OSC more specifically alleges that Respondent wrote ''fraudulent prescriptions for controlled substances'' for himself using the names of ''multiple fictitious patients,'' his wife, and his father on his own prescription pad. *Id.* at 2. The OSC further alleges that he wrote ''fraudulent prescriptions for controlled substances'' for himself using his name and the names of fictitious

[1] Also referred to as ''Sohail Mamdani, D.O.'' RFAAX 1, at 1.