Issued: January 4, 2023.

Katherine Hiner,

Acting Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Sualeh Ashraf, M.D.; Decision and Order

On September 30, 2021, the Drug Enforcement Administration (DEA) issued an Order to Show Cause (OSC) to Sualeh Ashraf, M.D. (Registrant), of Kissimmee, Florida. Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 6. The OSC proposed the revocation of Registrant's DEA Certificate of Registration, Control No. BA2668183, and the denial of Registrant's pending application for an additional DEA Certificate of Registration, Application No. W21001036C, alleging that Registrant has ''committed such acts that would render [his] registration inconsistent with the public interest.'' *Id.* at 1–2 (citing 21 U.S.C. 824(a)(4) and 823(f)).[1]

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA, dated July 21, 2022.

I. Findings of Fact

A. Investigation of Registrant

According to the DEA Diversion Investigator assigned to investigate Registrant (DI), Registrant issued at least 33 prescriptions for controlled substances—specifically, oxycodone, Adderall, hydrocodone, and zolpidem—to three individuals identified as J.L., D.L., and J.L.2 between September 27, 2016, and May 24, 2018. RFAAX 17, at 1–2; *see also* RFAAX 2. As part of the investigation, DI obtained a transcript of an interview that the Polk County Sheriff's Office conducted with Registrant on June 12, 2018. RFAAX 17, at 3; *see also* RFAAX 12. During the interview, Registrant stated that he could not recall issuing any of the prescriptions for oxycodone,[2] although he admitted to issuing prescriptions for zolpidem to J.L. as recently as the month prior to the interview. RFAAX 17, at 3; *see also* RFAAX 12, at 54–57. DI made numerous attempts to obtain patient records for J.L., D.L., and J.L.2, including serving multiple Administrative Subpoenas to Registrant as well as contacting both the Polk County Sheriff's Office and the Florida Department of Health.[3] *Id.* at 3–4. Ultimately, Registrant was unable to produce any records regarding the prescriptions in question. *Id.* at 2.

Regarding Registrant's dispensing records, on July 26, 2017, DI made two visits to the clinic where Registrant was employed, DDILIH. *Id.* at 4. According to DI, Registrant stated that he began dispensing controlled substances in March 2017 and admitted to dispensing phentermine directly to uninsured patients. *Id.* Nonetheless, Registrant failed to produce an initial inventory of controlled substances and failed to produce any dispensing records of controlled substances in violation of 21 CFR 1304.03(b), 1304.22(c), and 1304.11(b).[4] RFAAX 17, at 5. After conducting an audit of DDILIH's supply of phentermine in comparison to Registrant's purchase invoices, DI concluded that 24,349 tablets of 37.5 mg units and 250 tablets of 8 mg units were unaccounted for.[5] RFAAX 17, at 5. After obtaining records from the Florida Prescription Drug Monitoring Program, DI also determined that Registrant failed to report his dispensing of phentermine to the Program as required by Florida law (Fla. Stat. § 893.055(3)(a)). *Id.; see also* RFAAX 9.

Additionally, DEA's investigation determined that Registrant failed to report the theft of 14 bottles of phentermine to DEA within one business day of discovery in violation of 21 CFR 1301.76(b), although the theft was reported to local police. RFAAX 17, at 5–6; *see also* RFAAX 10. Further, DEA's investigation determined that Registrant was dispensing phentermine in containers without warning labels that conformed to 21 CFR 290.5. RFAAX 17, at 6; *see also* RFAAX 8. Finally, DI determined that Registrant failed to properly store phentermine in a ''securely locked, substantially constructed cabinet,'' in violation of 21 CFR 1301.75(b), with Registrant admitting that J.L., who is not a DEA

[1] On November 3, 2021, Registrant submitted a signed document titled ''Corrective Action Plan'' in response to the OSC; however, the document appears to be primarily a written response to the Government's allegations with a brief Corrective Action Plan and several attachments. *See* RFAAX 16. The document did not indicate that Registrant intended to request a hearing. RFAAX 16. On April 21, 2022, the DEA issued a letter to Registrant denying his proposed Corrective Action Plan and advising him of his retained procedural and due process rights. RFAAX 14. On May 10, 2022, Registrant responded by email, in which he again did not request a hearing, and the Government did not otherwise receive any hearing request from Registrant. RFAAX 15; RFAA, at 1–3; *see also* RFAA, at 3 n.1.

[2] Registrant stated that he did not recall prescribing oxycodone with acetaminophen to J.L. but left open the possibility that he did, stating: ''. . . years ago if she had a headache or she had something she asked me I given [sic] 5 or 6 but not on a regular basis that I would remember . . .'' RFAAX 12, at 58–59.

[3] On April 3, 2019, DI sent an initial Administrative Subpoena to Registrant at Registrant's residential address. RFAAX 17, at 3. According to the DI, on May 1, 2019, Registrant's attorney responded by email, writing that while Registrant recognized the names of the individuals listed in the subpoena as relatives of J.L., he did not have any independent knowledge that they were patients at the weight management clinic (Dr. Drop it Like it's Hot, ''DDILIH'') where Registrant worked as a physician and of which J.L. was the manager and registered agent. *Id.* at 2–3; *see also* RFAAX 11. Registrant's attorney also wrote that Registrant was positive that none of the individuals listed in the subpoena were ever patients of his separately located primary private practice and that even if they had been patients at the clinic where Registrant was employed (DDILIH), ''all patient records at that office were confiscated by law enforcement at the time the office was raided and both [Registrant] and [J.L.] were arrested.'' RFAAX 17, at 3; *see also infra* I.C. (regarding the arrest of Registrant and J.L. for a separate matter). Registrant's attorney concluded that none of the records were returned to Registrant and so Registrant had no records to provide in response to the subpoena. RFAAX 17, at 3. On May 1, 2019, DI emailed Registrant's attorney informing him that he had not provided any information regarding the requested medical file for J.L. to which Registrant's attorney responded by email the next day stating that Registrant ''did not have possession of any patient charts for any of the individuals identified in the subpoena.'' *Id.*

However, when DI contacted both the Polk County Sheriff's Office and the Florida Department of Health, he was informed that no patient records had been seized from DDILIH during the execution of a search warrant on June 12, 2018. *Id.* at 4. On July 19, 2019, DI served an Administrative Subpoena to the Florida Department of Health and was informed on August 27, 2019, that the Florida Department of Health did not have any patient files for J.L., D.L., or J.L.2. *Id.* On June 11, 2021, DI served additional Administrative Subpoenas to Registrant at Registrant's DEA registered address to which Registrant responded on June 25, 2021, again stating that every document from his place of business had been confiscated and thus he had no records to produce. *Id.*

[4] According to DI, Registrant stated that the inventory was in J.L.'s possession and that his dispensing records were annotated in his patients' medical records; however, when asked to produce a patient medical record with an included dispensing record, Registrant presented ''a folder containing a document titled 'New patient information form,' a blank form with nothing to indicate that it pertained to a particular patient.'' RFAAX 17, at 5; *see also* RFAAX 4. The only other record that Registrant produced was ''a form dated July 26 (no year specified) which associated just 30 37.5 mg dosage units of phentermine with a patient identified as Y.G.'' RFAAX 17, at 5; *see also* RFAAX 7.

[5] When asked by DI to produce his purchase invoices for phentermine, Registrant produced invoices indicating that he had purchased 20,000 37.5 mg dosage units of phentermine over five different dates. *Id.; see also* RFAAX 6. Upon contacting Registrant's distributor, DI determined that on two additional dates, Registrant purchased an additional 5000 37.5 mg dosage units of phentermine and 250 8 mg dosage units of phentermine for which he did not have any records. RFAAX 17, at 5. Upon conducting an audit of DDILIH's supply of phentermine, DI initially determined that Registrant only had 621 37.5 mg dosage units on the premises, with an additional 30 dosage units later discovered. *Id.; see also* RFAAX 5.

registrant, ''stored controlled substances in her home during the hours when [DDILIH] was not open.'' RFAAX 17, at 6.

B. The Government Expert's Review of Registrant's Prescriptions

The DEA hired Dr. Mark Rubenstein, M.D., to opine on Registrant's controlled substance prescribing based on the prescription and dispensing information described above (RFAAX 2). RFAAX 17, at 4; *see also* RFAAX 18, at 1. The Agency finds that Dr. Rubenstein is an expert in the standard of care for prescribing controlled substances in Florida and gives his expert report, *see* RFAAX 3, and his Declaration full credit in this Decision. *See* RFAAX 13; RFAAX 18, at 1.

Dr. Rubenstein reviewed seven prescriptions for oxycodone issued by Registrant to J.L. from March 17, 2017, through April 26, 2018, and found that on at least four of the prescriptions, Registrant wrote that the prescription was issued for '''pain.''' RFAAX 18, at 2; *see also* RFAAX 2, at 17–24, 27–32. According to Dr. Rubenstein, although there were no corresponding medical records, ''the pattern, number, and frequency of these prescriptions indicate that [Registrant] issued [them] in order to treat some type of chronic nonmalignant pain.'' [6] RFAAX 18, at 2. Dr. Rubenstein explained the standard of care for the treatment of chronic nonmalignant pain with controlled substances in the State of Florida and concluded that ''[b]ecause there were no medical records to review, none of the requirements for treating chronic nonmalignant pain [were] satisfied with respect to the oxycodone prescriptions issued [by Registrant] to J.L.'' *Id.* Further, Dr. Rubenstein reviewed the prescriptions for Adderall that Registrant issued to J.L., D.L., and J.L.2 and concluded that ''because there [were] no medical records to review, there [was] no evidence that [Registrant] issued these prescriptions for a medical purpose permitted by Florida law,'' nor was there ''any evidence that the prescriptions were issued for any legitimate medical purpose.'' *Id.; see also* RFAAX 2.

Ultimately, Dr. Rubenstein found that there was ''no evidence that [Registrant] kept any medical records to justify the course of treatment of [patients J.L., D.L., and J.L.2].'' RFAAX 18, at 2. Based on his expert medical opinion, Dr. Rubenstein concluded, and the Agency agrees, that ''[Registrant] engaged in a pattern or practice of prescribing [that] demonstrated a lack of reasonable skill or safety to [the] patients, that [Registrant] failed to document an appropriate physician-patient relationship with [the patients], and that [Registrant's] prescribing of controlled substances was not within the usual scope of professional practice and cannot be deemed issued for a legitimate medical purpose.'' *Id.; see also* RFAAX 3, at 4.

C. Registrant's Case

As previously noted, Registrant responded to the OSC through a signed document entitled, ''Corrective Action Plan.'' *See* RFAAX 16. The document includes a Corrective Action Plan and also details Registrant's position on the Government's allegations with supporting documentation.[7] *Id.*

Within the ''Corrective Action Plan,'' Registrant offered explanation of his misconduct. RFAAX 16, at 2–6, 7–9. Registrant described how he began working with J.L. at their weight loss clinic, where J.L. was the business owner and Registrant was the doctor of record.[8] *Id.*[9] Regarding the at least 33 controlled substance prescriptions at issue, Registrant argued that he ''did nothing wrong intentionally or otherwise,'' and repeatedly claimed that he did not issue the prescriptions.[10] RFAAX 16, at 2–6. Registrant suggested that it was likely that J.L. forged his signature and issued the prescriptions to herself.[11] RFAAX 16, at 2–6. Registrant also claimed that he had never met D.L., J.L.'s husband, that he had never met J.L.2, J.L.'s son, and that he did not even know that J.L. had a son. *Id.* at 3–4. Registrant argued that, because he did not issue the controlled substance prescriptions in question, he did not violate any state or federal laws nor did he fail to adhere to the Florida standard of care. *Id.* at 2–6. Finally, Registrant concluded that ''[i]t should be obvious to the DEA that the criminal mind and the criminal muscle behind the endeavors described on the [OSC] are the works of J.L.'' *Id.* at 9.

Registrant proposed that, going forward, he would not leave his prescription pads outside of his briefcase or purview and would not allow anyone else to handle his prescriptions; that he would not allow anyone else to call in his prescriptions to pharmacies and would not give anyone else access to his passwords; and that he would monitor the prescription activity taking place under his name on the Florida Prescription Drug Monitoring Program online database. *Id.* at 2.[12]

II. Discussion

A. The Five Public Interest Factors

Under the Controlled Substances Act (CSA), ''[a] registration . . . to . . . dispense a controlled substance . . . may be suspended or revoked by the Attorney General 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). An application for a practitioner's registration may be denied upon a determination that ''the issuance of such registration . . . would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination, the CSA requires consideration of the following factors:

[6] Dr. Rubenstein noted that if Registrant had actually issued these four prescriptions to treat acute pain, Registrant would have been in violation of Florida regulations because the prescriptions were for 30-day supplies and Florida regulations provide that a prescription for a Schedule II opioid for acute pain may not exceed a seven-day supply. RFAAX 18, at 2 n.1; *see also* RFAAX 2, at 17–20, 27–32.

[7] The Agency considers RFAAX 15 and 16 collectively as a written response. *See Creekbend Community Pharmacy*, 86 FR 40,627, 40,627–29, 40,636 (2021) (the Agency considered an ambiguous document submitted by the Respondent Pharmacy that contained both a written response to the OSC, not submitted in lieu of a hearing, and a Corrective Action Plan).

[8] Registrant further described how J.L. ''had alleged to be a nurse'' and had a good reputation, but was later revealed to be unlicensed. *Id.* at 7–8.

[9] *See also id.* at 18–25. According to Registrant, in June 2018, J.L. was arrested for practicing health care without a license and Registrant was arrested for employing J.L. as an unlicensed nurse. *Id.* at 8, 13. According to Registrant, everything was investigated by Polk County Police over a period of years and ''[t]he Polk County State Attorney's Office dismissed all of the charges against [him]'' and that ''the Court granted expungement of [his] arrest and criminal charges.'' *Id.* at 9; *see also id.* at 12–17.

[10] Compare this unequivocal denial to his statement to local police that he ''[did not] recall'' prescribing oxycodone with acetaminophen to J.L. while leaving open the possibility that ''. . .years ago if she had a headache or she had something she asked me I given [sic] 5 or 6 but not on a regular basis that I would remember . . . .'' RFAAX 12, at 58–59.

[11] However, in his recorded statement for the Polk County Sheriff's Office, Registrant seems to admit that he left pre-signed prescriptions for J.L. to fill out for patients when he was not available. RFAAX 12, at 15–18.

[12] On April 21, 2022, the DEA issued a letter to Registrant denying his proposed Corrective Action Plan to which Registrant expressed his disagreement in an email dated May 10, 2022. RFAAX 14; RFAAX 15. Registrant wrote, ''In terms of the public safety: [J.L.] was not public as she was part of the employ [sic] apparatus that betrayed my trust in her as she prescribed to herself and family. It was not rampant public safety [sic]. Moreover, all I can think of in my plan to prevent future breach of trust is to keep my prescription pads locked under my control.'' RFAAX 15, at 1–2.

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(f).

The DEA considers these public interest factors in the disjunctive. *Robert A. Leslie, M.D.,* 68 FR 15,227, 15,230 (2003). Each factor is weighed on a case-by-case basis. *Morall* v. *Drug Enf't Admin.,* 412 F.3d 165, 173–74 (D.C. Cir. 2005). Any one factor, or combination of factors, may be decisive. *David H. Gillis, M.D.,* 58 FR 37,507, 37,508 (1993).

While the Agency has considered all of the public interest factors in 21 U.S.C. 823(f),[13] the Government's evidence in support of its *prima facie* case for revocation of Registrant's registration and denial of Registrant's application is confined to Factors Two and Four. *See* RFAA, at 9–14. Moreover, the Government has the burden of proof in this proceeding. 21 CFR 1301.44. The Agency finds that the Government's evidence satisfies its *prima facie* burden of showing that Registrant's continued registration would be ''inconsistent with the public interest.'' 21 U.S.C. 824(f). The Agency further finds that Registrant failed to provide sufficient evidence to rebut the Government's *prima facie* case.

B. Factors Two and Four

Evidence is considered under Public Interest Factors Two and Four when it reflects compliance (or non-compliance) with laws related to controlled substances and experience dispensing controlled substances. *See Kareem Hubbard, M.D.,* 87 FR 21,156, 21,162 (2022). The Government has alleged that Registrant's prescribing practices violated both federal and Florida state law. RFAAX 1, at 2–4. According to the CSA's implementing regulations, a lawful controlled substance order or prescription is one that is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). Moreover, among the listed acts in Florida law that ''shall constitute grounds'' for which disciplinary action may be taken are: ''[e]ngaging in a pattern of practice when prescribing . . . controlled substances which demonstrates a lack of reasonable skill or safety to patients,'' Fla. Stat. § 456.072(gg) (July 1, 2016 to June 30, 2020);[14] [15] and violating a standard of practice for the treatment of chronic nonmalignant pain with a controlled substance,[16] Fla. Stat. § 456.44(3)(a), (b), (c), and (f) (July 1, 2016 to June 30, 2020). S*ee also* Fla. Stat. § 458.331(1)(m) and (q) (July 1, 2016 to Dec. 31, 2019) (setting out grounds for denial of a license or disciplinary action, including failing to keep legible medical records that justify the course of treatment of the patient and prescribing, dispensing, administering, mixing, or otherwise preparing a controlled substance other than in the course of the physician's professional practice, without regard to his or her intent).

Based on the credible and unrebutted opinion of the Government's expert, the Agency found above that Registrant's prescribing of at least 33 controlled substance prescriptions to at least three different patients was not within the usual scope of professional practice, that the prescriptions could not be deemed issued for a legitimate medical purpose, that Registrant failed to document an appropriate physician-patient relationship with the patients, and that Registrant engaged in a pattern or practice of prescribing that demonstrated a lack of reasonable skill or safety to his patients. *See supra* I.B. Further, there is no evidence in the record that Registrant adhered to the requirements under Florida state law for issuing controlled substances to treat nonmalignant pain.

In addition, the Government has alleged that Registrant violated various federal regulations applicable to his dispensing of controlled substances. RFAAX 1, at 4 (citing 21 CFR 1304.03(b), 1304.22(c), 1304.11(b), 290.5, 1301.76(b), 1301.75(b)). Based on the DI's Declaration and the entire record, the Agency found above that Registrant failed to produce dispensing records in violation of 21 CFR 1304.03(b) and 1304.22(c); failed to produce an initial inventory of controlled substances in violation of 21 CFR 1304.11(b); failed to report the theft of phentermine to DEA in violation of 21 CFR 1301.76(b); and failed to store phentermine in a ''securely locked, substantially constructed cabinet'' in violation of 21 CFR 1301.75(b). *See supra* I.A. Further, there is also substantial record evidence that Registrant dispensed phentermine, a Schedule IV controlled substance, in violation of the requirements of 21 CFR 290.5. Accordingly, Registrant violated ''applicable . . . Federal . . . law [ ] relating to controlled substances,'' which supports the Government's case for revocation. 21 U.S.C. 823(f)(4).[17]

In sum, the Agency finds that the record contains substantial evidence that Registrant prescribed and dispensed controlled substances in violation of both federal and state law. The Agency, therefore, finds that Factors Two and Four weigh in favor of revocation of Registrant's registration and denial of Registrant's application and thus finds Registrant's registration to be inconsistent with the public

[13] As to Factor One, there is no record evidence of disciplinary action against Registrant's state medical license. 21 U.S.C. 823(f)(1). State authority to practice medicine is ''a necessary, but not a sufficient condition for registration . . . .'' *Robert A. Leslie, M.D.,* 68 FR at 15230. Therefore, ''[t]he fact that the record contains no evidence of a recommendation by a state licensing board 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 Three, there is no evidence in the record that Registrant 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(f)(3). However, ''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). As to Factor Five, the Government's evidence fits squarely within the parameters of Factors Two and Four and does not raise ''other conduct which may threaten the public health and safety.'' 21 U.S.C. 823(f)(5). Accordingly, Factor Five does not weigh for or against Registrant.

[14] By regulation, Florida states the purposes for maintaining medical records, including to ''furnish documentary evidence of the course of the patient's medical evaluation, treatment, and change in condition.'' Admin. Code Ann. r. 64B8–9.003(1)(b).

[15] Relevant years' iterations of the provisions of Florida law cited in this Decision are either identical to or do not deviate substantively from the cited texts.

[16] Such standards of practice include: before beginning any treatment, conducting a documented and complete medical history and physical examination proportionate to the diagnosis that justifies treatment; developing a written individualized treatment plan for each patient; discussing, with the patient or specified associated individual, the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences; and maintaining accurate, current, and complete records that are accessible and readily available for review and that comply with legal requirements.

[17] The Government has also alleged that Registrant violated Fla. Stat. § 893.055(3)(a), which requires a dispensing practitioner to report to the Florida Prescription Drug Monitoring Program specific information about every controlled substance dispensed. RFAAX 1, at 3–4. Based on the DI's Declaration and RFAAX 9, the Agency found above that Registrant failed to report his dispensing of phentermine to the Florida Prescription Drug Monitoring Program in violation of Fla. Stat. § 893.055(3)(a). *See supra* I.A.

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