in support of its *prima facie* case for denial of Applicant's application is confined to Factors B and D. *See* RFAA, at 6–9. Moreover, the Government has the burden of proof in this proceeding. 21 CFR 1301.44.

Here, the Agency finds that the Government's evidence satisfies its *prima facie* burden of showing that Applicant's registration would be ''inconsistent with the public interest.'' 21 U.S.C. 824(a)(4).

1. Factors B and D

Evidence is considered under Public Interest Factors B and D 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 21156, 21162 (2022). In the current matter, the Government has alleged that Applicant has violated both federal and California state law regulating controlled substances. RFAAX 10, at 1–5.[10]

Under federal law, those engaged in chemical analysis are required to be registered with the DEA. 21 CFR 1301.13(e)(1)(x). Regarding recordkeeping, the CSA requires that DEA registrants maintain complete and accurate records of the manufacture, receipt, sale, delivery, or disposal of controlled substances. 21 U.S.C. 827(a)(3). Additional relevant recordkeeping requirements can be found at 21 CFR 1304.03(a) (all registrants shall maintain required records), 1304.04(a) (records must be retained and available for DEA inspection for at least two years), 1304.21(a) (records must be complete and accurate), 1304.23(a) (registrants registered for chemical analysis with controlled substances must maintain records for each controlled substance).

Here, the record demonstrates that prior to the expiration of its previous registration on September 30, 2020, Applicant failed to maintain necessary records as required by the CSA despite receiving and possessing controlled substances. Further, the record demonstrates that following the expiration of its previous registration on September 30, 2020, Applicant unlawfully continued to receive and possess large quantities of controlled substances without maintaining necessary records for two years as required by the CSA. As Applicant's conduct displays clear violations of federal law relating to controlled substances, the Agency hereby finds that Applicant violated 21 U.S.C. 827(a)(3) and 21 CFR 1301.13(e)(1)(x), 1304.03(a), 1304.04(a), 1304.21(a), 1304.23(a).

Accordingly, the Agency finds that Factors B and D weigh in favor of denial of Applicant's application and thus finds Applicant's registration to be inconsistent with the public interest in balancing the factors of 21 U.S.C. 823(g)(1). The Agency further finds that Applicant failed to provide sufficient evidence to rebut the Government's *prima facie* case.

III. Sanction

Where, as here, the Government has established grounds to deny Applicant's application, the burden shifts to the registrant to show why it 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, it must both accept responsibility and demonstrate that it 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 33746.

Here, Applicant did not request a hearing, submit a corrective action plan, respond to the OSC, or otherwise avail itself of the opportunity to refute the Government's case. As such, Applicant has made no representations as to its future compliance with the CSA nor demonstrated that it can be entrusted with registration. Moreover, the evidence presented by the Government clearly shows that Applicant violated the CSA and the Agency has found that Applicant is ineligible for DEA registration. S*ee supra* at II.1. Accordingly, the Agency will order the denial of Applicant's application.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1) and 21 U.S.C. 824(a), I hereby deny the pending application for a Certificate of Registration, Control No. W21055614H, submitted by Green Wave Analytical, as well as any other pending application of Green Wave Analytical for additional registration in California. This Order is effective October 16, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 5, 2023, 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**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–19820 Filed 9–13–23; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23–7]

Rachel Pittala, APRN; Decision and Order

On October 18, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Rachel Pittala, APRN (Respondent) of Orlando, Florida. OSC/ISO, at 1. The OSC/ISO informed Respondent of the immediate suspension of her DEA Certificate of Registration, Control No. MP4600791, pursuant to 21 U.S.C. 824(d), alleging that Respondent's continued registration constitutes '''an imminent danger to the public health or safety.' '' OSC/ISO, at 1 (quoting 21 U.S.C. 824(d)). The OSC/

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 Applicant 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). Likewise to Factor A, Agency cases have found that ''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). Finally, as to Factor E, the Government's evidence fits squarely within the parameters of Factors B and D and does not raise ''other conduct which may threaten the public health and safety.'' 21 U.S.C. 823(g)(1)(E). Accordingly, Factor E does not weigh for or against Applicant.

[10] The Agency need not adjudicate the criminal violations alleged in the instant Order to Show Cause. *Ruan* v. *United States,* 142 S. Ct. 2370 (2022) (decided in the context of criminal proceedings).

ISO also proposed the revocation of Respondent's registration, alleging that Respondent has ''committed such acts as would render [her] registration inconsistent with the public interest.'' *Id.* at 1, 4 (citing 21 U.S.C. 823(g)(1),[1] 824(a)(4)).

A hearing was held before DEA Administrative Law Judge Teresa A. Wallbaum (the ALJ) who, on May 15, 2023, issued her Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision (Recommended Decision or RD), which recommended revocation of Respondent's registration. RD, at 27. Respondent did not file exceptions to the RD. Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, credibility findings,[2] findings of fact, conclusions of law, sanctions analysis, and recommended sanction as found in the RD.

I. Findings of Fact

Investigation and Undercover Phone Call

Respondent was a mid-level practitioner at Sawgrass Health of Florida (Sawgrass Health), a practice operated by physician S.H. RD, at 5; Tr. 37, 44. On April 4, 2022, an undercover detective (UC) posing as a patient went to Sawgrass Health and recorded his visit with S.H. and his attempt to obtain prescriptions. RD, at 5; Tr. 46–47, 74. Respondent was not present during the visit. RD, at 5; Tr. 66. UC testified that during the visit, S.H. did not perform a physical examination, take vital signs, or obtain a medical history; further, S.H. indicated that he would not be issuing any prescriptions and that Respondent would follow up with UC to issue him prescriptions. RD, at 5–6; Tr. 83, 92, 112. On April 5, 2022, Respondent and UC had a phone call. RD, at 6; Tr. 92, 94–95; GX 6–7.

At the beginning of the call, Respondent stated to UC, ''[S.H.] sent me a message and . . . asked me to give you a call so we can . . . see whatcha need,'' and then immediately asked UC ''what medication [he was] needing.'' RD, at 6; GX 8, at 1. UC stated that he wanted Adderall, to which Respondent asked UC if he had attention-deficit/hyperactivity disorder (ADHD) and UC replied, ''No I don't I just . . . like taking it[.] I don't . . . have any medical stuff.'' *Id.* UC told Respondent that he was buying 30 mg tablets of Adderall, the highest strength of Adderall tablets, from a friend but that he did not want to continue purchasing them from his friend. *Id.;* Tr. 161. Then, Respondent stated, ''[S]o I do have to put[,] in order to legally prescribe this medication for you[,] [ ] I have to document that you have a diagnosis of ADHD.'' RD, at 6; GX 8, at 4. When UC was non-responsive, Respondent reiterated, ''I have to document that otherwise I can't prescribe it,'' to which UC replied, ''Ok well I mean whatever you gotta put down.'' *Id.* Respondent asked UC if he was ever told as a child that he had ADHD to which UC said no twice; then Respondent stated, ''Oh ok so . . . a friend just let you try it out and it just gives you energy and helps you concentrate better,'' to which UC replied, ''Yeah.'' *Id.*

Following Respondent's indication that she would send a prescription for Adderall to UC's pharmacy, UC also asked Respondent for a Xanax[3] prescription. RD, at 6; GX 8, at 4. Respondent then stated that Sawgrass Health did not issue Xanax prescriptions, to which UC replied that he would ''keep getting that from [his] friend then.'' RD, at 6; GX 8, at 5. Respondent discouraged UC from buying Xanax from friends because the pills could be dangerous and illegitimate; Respondent and UC also briefly discussed the dangers of fentanyl and Respondent said that she could give UC Klonopin[4] instead of Xanax, but UC would need to choose between the Klonopin and Adderall prescriptions because Respondent was ''trying not to do too much combinations'' and she would need to check with S.H. RD, at 6; GX 8, at 5–6. Respondent told UC that he had to promise that he would not be ''using anything on the street'' if she gave him the prescriptions. RD, at 7; GX 8, at 7; Tr. 114. Respondent stated to UC, ''[y]ou have a lot of anxiety,'' to which UC responded, ''[n]o . . . I just started taking it when they . . . gave it to me and I was like alright I'll try it.'' RD, at 7; GX 8, at 7–8. When Respondent asked UC if he took Xanax for anxiety or to relax, UC said that it was ''[m]ore of a relax'' and said that he either took Xanax or ''smoke[d] weed'' to relax. RD, at 7; GX 8, at 8.

Respondent and UC again discussed the dangers of fentanyl; Respondent told UC that he did the right thing by coming to see S.H. and asked that UC not purchase anything illicitly. RD, at 7; GX 8, at 8–10. At the conclusion of the phone call, Respondent told UC that she would issue him prescriptions for 30 mg tablets of Adderall and 1 mg tablets of Klonopin. RD, at 7; GX 8, at 5–6, 10–11. After his call with Respondent, UC went to the pharmacy where Respondent had sent his prescriptions, filled the prescriptions, and obtained the controlled substances. RD, at 7; Tr. 106–108; GX 9a; GX 9b; GX 11.

Respondent

Respondent worked at Sawgrass Health and signed a collaborative agreement with S.H. for him to be her supervising physician. RD, at 8; Tr. 221–222, 225–226, 230; RX 2.[5] [6] When treating patients at Sawgrass Health, S.H. would establish care with new

[1] Effective December 2, 2022, the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117–215, 136 Stat. 2257 (2022) (Marijuana Research Amendments or MRA), amended the Controlled Substances Act (CSA) and other statutes. Relevant to this matter, the MRA redesignated 21 U.S.C. 823(f), cited in the OSC/ISO, as 21 U.S.C. 823(g)(1). Accordingly, this Decision cites to the current designation, 21 U.S.C. 823(g)(1), and to the MRA-amended CSA throughout.

[2] The Agency adopts the ALJ's summary of each of the witnesses' testimonies as well as the ALJ's assessment of each of the witnesses' credibility. *See* RD, at 3–13. The Agency agrees with the ALJ that the Diversion Investigator's testimony, which was focused on the uncontroversial introduction of documentary evidence and the Diversion Investigator's contact with the case, was credible in that it was sufficiently detailed, plausible, and internally consistent. *Id.* at 4. The Agency also agrees with the ALJ that the undercover detective's testimony, which was focused on the recorded phone conversation that the detective had with Respondent to obtain controlled substances, was credible in that it was internally consistent as well as consistent with both the Diversion Investigator's testimony and the recording of the detective's conversation with Respondent. *Id.* Further, the Agency agrees with the ALJ that the testimony from the Government's expert witness, which was focused on Respondent's treatment of the undercover detective, was credible and reliable given the expert's knowledge of the Florida standard of care and Florida state law underlying the standard of care. *Id.* at 5. Finally, the Agency agrees with the ALJ that Respondent's testimony was not fully credible in that it was unclear, evasive, and both internally contradictory and contradictory with the recording of the detective's conversation with Respondent. *Id.* at 12–13. Specifically, Respondent contradicted herself multiple times regarding her reasoning for prescribing Adderall, her reasoning for prescribing Adderall and Klonopin together, and the extent of her autonomy in treating patients. *Id.*

[3] Xanax is a brand name for alprazolam. RD, at 6.

[4] Klonopin is a brand name for clonazepam. RD, at 6.

[5] Under the collaborative agreement, Respondent had the authority to, among other things, determine if a patient should receive treatment; examine and initiate treatment of a patient's mental health and psychiatric conditions; prescribe controlled and non-controlled substances; and ultimately manage the patient's care and make her own decisions regarding the proper diagnosis and treatment. RD, at 8; Tr. 305–310; RX 2.

[6] Respondent viewed S.H. as a mentor and expert in addiction due to his experience at the Betty Ford Clinic and his success in treating patients abusing methamphetamine, cocaine, and other substances by prescribing Adderall. RD, at 9; Tr. 233–234, 244–245, 299, 388–389, 406, 411. Respondent testified that although she now recognizes that Adderall should not be prescribed to treat drug abuse, she had previously ''felt confident and comfortable'' trusting S.H.'s opinion and S.H. had ''felt that it was a good practice'' despite a lack of published studies regarding the use of Adderall for managing drug abuse. RD, at 9; Tr. 244–245, 249.

patients and then assign patients to Respondent. RD, at 8; Tr. 229.[7] When Respondent began treatment of a patient, she became independently responsible for deciding the course of treatment including what, if any, medications to prescribe, with recommendations from S.H. RD, at 8–9; Tr. 358–359.

Regarding the current matter, Respondent testified that prior to the phone call with UC, S.H. had provided her with a verbal history and indicated that UC had a substance use disorder, but S.H. specifically stated that he did not diagnose UC with ADHD or anxiety. RD, at 9; Tr. 371–373, 393, 395–397.[8] Respondent testified that she issued the Adderall prescription to UC because of S.H.'s recommendation that Adderall was an effective treatment for patients with substance use disorder, and Respondent documented a diagnosis of ADHD because there were no ICD codes[9] that allowed for Adderall to be prescribed for substance use disorder. RD, at 10; Tr. 380–381. Respondent also stated that she prescribed the Adderall because she was concerned that UC was illicitly purchasing it and could potentially take something laced with fentanyl. RD, at 10; Tr. 374–375, 380–382.

Regarding the Klonopin prescription, Respondent testified that she prescribed Klonopin to UC because she wanted to keep him safe and further explore a plan of care with follow-up visits. RD, at 10; Tr. 385–386.[10] Respondent testified that although UC stated multiple times that he did not have anxiety, she believed that his statements about wanting a benzodiazepine to relax were an indicator of generalized anxiety disorder (GAD); however, Respondent acknowledged that UC's statements about wanting to relax were not enough to establish a diagnosis of GAD and S.H. had not provided any diagnosis justifying a benzodiazepine prescription. RD, at 10–11; Tr. 378, 385, 397, 399–400.

In the time since her call with UC and since leaving Sawgrass Health, Respondent has obtained her post-master's certification to treat psychiatric and mental health conditions as well as completed two additional courses, one regarding safely and effectively prescribing controlled substances in Florida and the other regarding the laws and rules governing nursing in Florida. RD, at 11; Tr. 248–249; RX 8–9. Respondent testified that this training ''really clarified some things for [her].'' RD, at 11; Tr. 247. Respondent also testified that she now understands that S.H.'s opinion on Adderall was wrong and that she violated the CSA. RD, at 11; Tr. 249, 299.[11]

Florida Standard of Care

DEA hired Dr. Kennedy to testify as an expert in the standard of care in prescribing controlled substances in Florida, including for the management of pain and addiction and including prescribing by nurse practitioners. RD, at 4; Tr. 136–137.[12] Dr. Kennedy testified that a nurse practitioner is independently responsible for the controlled substance prescriptions that he or she issues and remains subject to any obligations under the Florida standard of care even if he or she has a collaborative agreement with a physician. RD, at 13; Tr. 186, 189, 204. According to Dr. Kennedy, the Florida standard of care requires that a nurse practitioner perform a physical examination,[13] obtain a medical history, create an individualized treatment plan, and maintain accurate and complete records. RD, at 13; Tr. 147. Further, a nurse practitioner may only prescribe controlled substances for a legitimate medical purpose and cannot provide treatment beyond his or her training. RD, at 14; Tr. 140–141.[14] Dr. Kennedy also testified that a nurse practitioner must monitor for red flags,[15] and to resolve a red flag, a nurse practitioner must, at a minimum, discuss and define the red flag with the patient and document it. RD, at 14; Tr. 154–155. Regarding the prescribing of Adderall by a nurse practitioner, Dr. Kennedy testified that under the Florida standard of care, a nurse practitioner can only prescribe Adderall for patients falling into one of three categories[16] and must consider the FDA ''Black Box'' warning for Adderall before prescribing it to a patient.[17] RD, at 14; Tr. 169, 419–420.

In reviewing the current matter, Dr. Kennedy determined, and the Agency agrees, that Respondent issued both prescriptions to UC beneath the Florida standard of care because, as detailed above, Respondent failed to make a diagnosis justifying either prescription, failed to take a medical history, failed to perform a physical examination, and failed to accurately document her treatment. RD, at 15; Tr. 170–172. Respondent's diagnostic procedure consisted of asking UC if he had ADHD and anxiety, to which UC repeatedly stated that he did not have either condition and wanted to take Adderall and Klonopin because he liked them and wanted to relax; and, Respondent ultimately failed to diagnose UC with any condition justifying either prescription, as well as ignored the FDA ''Black Box'' warning for Adderall in particular. RD, at 15–16; 159, 163–164, 166–169, 171–172, 419–420; GX 8, at 4, 8. Moreover, Respondent did not take a medical history for either prescription, did not perform any diagnostic interview for either prescription, failed

[7] Respondent exclusively provided care via telemedicine and never went to Sawgrass Health. RD, at 8; Tr. 232, 351. Following an in-person visit with a new patient, S.H. would contact Respondent to assign her the patient, give Respondent background on the patient, state a diagnosis, and make recommendations about treatment. RD, at 8; Tr. 251–252, 356.

[8] Respondent testified that UC ''didn't have an extensive history'' compared to other mental health patients that she treated and that she had no medical records for UC, so her conversation with S.H. was the only information she had besides what UC told her during their phone call. RD, at 9; Tr. 253–254, 372, 395.

[9] Respondent testified that ICD codes are codes that represent a diagnosis and are attached to medications that are prescribed to treat the diagnosis. RD, at 10 n.9; Tr. 387–388.

[10] On cross-examination, Respondent admitted that if a patient is not receiving controlled substances pursuant to a prescription, ''then that would be illicit drug use.'' RD, at 11; Tr. 300–301.

[11] Respondent stated that, at the time she prescribed Adderall, she ''did not willingly violate the Nurse Practice Act.'' RD, at 11; Tr. 246. Respondent also stated that she should have done a further assessment, assigned diagnostic criteria more appropriately, and used the ADHD and GAD screening questionnaires before prescribing Adderall and Klonopin. RD, at 11; Tr. 412. Respondent admitted that even when a patient reports having a particular condition, a practitioner must still evaluate the patient and confirm the diagnosis before prescribing controlled substances, and it was inappropriate for her to document a diagnosis or ICD code for a condition that a patient did not have. RD, at 11; Tr. 285–286, 291–292, 294–295, 394–395.

[12] For Dr. Kennedy's qualifications, *see* RD, at 4–5; Tr. 119, 124–129, 132–133, 135, 188. Dr. Kennedy testified that Florida statutes and Florida medical board regulations form the Florida standard of care. RD, at 13; Tr. 130–131.

[13] When treating a patient for a psychiatric condition, the physical examination may be a mental status examination or diagnostic interview without physical contact. RD, at 14; Tr. 182.

[14] Dr. Kennedy noted that it would be outside of the standard of care to prescribe controlled substances solely for the purpose of preventing a patient from obtaining controlled substances illicitly and that such a situation would more likely warrant ''a very strong reason not to prescribe that medication.'' RD, at 14; Tr. 422, 424.

[15] Dr. Kennedy defined red flags as ''cautionary things'' that should raise a practitioner's attention and indicated that a patient stating that he or she obtains controlled substances from an illicit source ''would be a big red flag.'' RD, at 14; Tr. 154–155. Moreover, a history of drug abuse would also constitute a red flag. RD, at 14; Tr. 153–154.

[16] The three categories include: (1) patients with narcolepsy, patients with ADHD, or children with behavioral syndrome; (2) patients receiving a differential diagnostic psychiatric evaluation of depression or treatment of depression that has been refractory to other therapies; and (3) patients participating in clinical investigations. RD, at 14; Tr. 169.

[17] The ''Black Box'' warning for Adderall states that Adderall has a high potential for abuse and diversion and should not be prescribed to patients with a history of drug abuse. RD, at 14; Tr. 151–154; GX 12, at 1.

to properly address clear red flags of diversion and abuse, and knowingly documented false diagnoses of ADHD and GAD. RD, at 15–16; Tr. 161–162, 164, 167–168, 170, 172–173, 180–182, 197–200, 202, 400–401, 422–423; GX 8 at 4–5, 7–8.

II. Discussion

A. The Five Public Interest Factors

Under the 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 her registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a). In making the public interest determination, the CSA requires consideration of the following factors:

(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.

21 U.S.C. 823(g)(1).

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).

The Government has the burden of proof in this proceeding. 21 CFR 1301.44. While the Agency has considered all of the public interest factors in 21 U.S.C. 823(g)(1), the Government's evidence in support of its *prima facie* case for revocation of Respondent's registration is confined to Factors B and D. RD, at 18; *see also* RD, at 18. n.16 (finding that Factors A, C, and E do not weigh for or against revocation).

Having reviewed the record and the RD, the Agency agrees with the ALJ, adopts the ALJ's analysis, and finds that the Government's evidence satisfies its *prima facie* burden of showing that Respondent's continued registration would be ''inconsistent with the public interest.'' 21 U.S.C. 824(a)(4). RD, at 18–23.

B. Factors B and D

Evidence is considered under Public Interest Factors B and D when it reflects compliance (or non-compliance) with laws related to controlled substances and experience dispensing controlled substances. *See Sualeh Ashraf, M.D.,* 88 FR 1095, 1097 (2023); *Kareem Hubbard, M.D.,* 87 FR 21156, 21162 (2022). 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); *see also* 21 U.S.C. 829. Further, Florida state law provides that a practitioner, including an advanced practice registered nurse, may only prescribe controlled substances when acting in good faith and in the course of professional practice. Fla. Stat. 893.02(3), 893.05(1)(a). Florida state law also provides that a nurse practitioner may be subject to discipline for, among other things, prescribing controlled substances for any purpose other than legitimate purposes [18] and for ''[f]ailing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the nurse is not qualified by training or experience.'' *Id.* 464.018(1)(i), (n). Under Florida state law, it is ''legally presumed that prescribing . . . controlled substances[ ] inappropriately . . . is not in the best interest of the patient and is not in the course of the advanced practice registered nurse's professional practice, without regard to his or her intent.'' *Id.* 464.018(1)(p)(6). Finally, Florida state law only authorizes the prescribing of amphetamines by a nurse practitioner for three specific purposes: (1) to treat patients with narcolepsy, patients with ADHD, or children with behavioral syndrome; (2) to treat patients receiving a differential diagnostic psychiatric evaluation of depression or treatment of depression that has been refractory to other therapies; and (3) to patients participating in clinical investigations. *Id.* 464.018(1)(p)(3).

In the current matter, the Agency agrees with the ALJ's analysis that Respondent issued prescriptions for Adderall and Klonopin to UC beneath the Florida standard of care and thus violated Federal and State Law because, as detailed above, Respondent failed to make a diagnosis justifying either prescription, failed to take a medical history, failed to perform a physical examination (conduct a diagnostic interview), and failed to accurately document her treatment. RD, at 20. Instead, Respondent ''prescribed two controlled substances to a person who repeatedly denied having any medical justification for those medications, repeatedly admitted that he was obtaining controlled substances illegally, and admitted that he wanted the controlled substances for recreational use.'' *Id.* Moreover, Respondent knowingly created and documented false diagnoses to issue the prescriptions for an improper purpose, that is, to prevent UC from illicitly obtaining controlled substances. *Id.* at 20, 21.

As Respondent's conduct displays clear violations of the federal and state regulations described above, the Agency agrees with the ALJ and hereby finds that Respondent violated 21 CFR 1306.04(a) and Fla. Stat. 464.018(1)(i), 464.018(1)(n), 464.018(1)(p)(3), 464.018(1)(p)(6), 893.02(3), 893.05(1)(a). RD, at 23. Accordingly, the Agency agrees with the ALJ and finds that Factors B and D weigh in favor of revocation of Respondent's registration and thus finds Respondent's continued registration to be inconsistent with the public interest in balancing the factors of 21 U.S.C. 823(g)(1). *Id.*

III. Sanction

Where, as here, the Government has established sufficient grounds to revoke Respondent's registration, the burden shifts to the registrant to show why she 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, she must both accept responsibility and demonstrate that she 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, the Agency agrees with the ALJ that Respondent failed to accept responsibility because ''[w]hile [she] acknowledged that she made mistakes with [UC] and would do things differently if she had the opportunity, she made excuses and shifted blame,''

[18] Legitimate purposes are as authorized by Fla. Stat. § 464.001–464.027 (the Nurse Practice Act).

such as repeatedly emphasizing that she had been trying to prevent UC from taking illicit controlled substances. RD, at 24–25.

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) (citing *Jones Total Health Care Pharmacy, L.L.C. & SND Health Care, L.L.C.,* 81 FR 79188, 79202–03 (2016)); *Daniel A. Glick, D.D.S.,* 80 FR 74800, 74801, 74810 (2015). Even so, in the current matter, the Agency agrees with the ALJ that although Respondent indicated that she has obtained her post-master's certification to treat psychiatric and mental health conditions as well as completed two additional courses, one regarding safely and effectively prescribing controlled substances in Florida and the other regarding the laws and rules governing nursing in Florida, ''these measures are inadequate in the face of her actions.'' RD, at 25.

In addition to acceptance of responsibility, the Agency considers both specific and general deterrence when determining an appropriate sanction. *Daniel A. Glick, D.D.S.,* 80 FR 74810. In this case, the Agency agrees with the ALJ that revocation will remind practitioners that a prescriber is independently responsible for the prescriptions that he or she issues. RD, at 27. Regarding Respondent in particular, ''[a]ny sanction short of revocation would fail to deter Respondent from ignoring red flags of diversion and prescribing controlled substances for other than legitimate medical purposes.'' *Id.* Moreover, the Agency agrees with the ALJ that Respondent's actions were egregious because Respondent knowingly recorded two false diagnoses when she documented ADHD and GAD to justify prescribing UC Adderall and Klonopin despite no medical justification for issuing the two prescriptions and in the face of obvious signs of diversion. RD, at 26–27.

In sum, Respondent has not offered any credible evidence on the record to rebut the Government's case for revocation of her registration and Respondent has not demonstrated that she can be entrusted with the responsibility of registration. RD, at 27. 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), I hereby revoke DEA Certificate of Registration No. MP4600791 issued to Rachel Pittala, APRN. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Rachel Pittala, APRN, to renew or modify this registration, as well as any other pending application of Rachel Pittala, APRN, for additional registration in Florida. This Order is effective October 16, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on September 5, 2023, 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**.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2023–19819 Filed 9–13–23; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1815]

Meeting of the Public Safety Officer Medal of Valor Review Board

AGENCY: Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA).

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting (via WebEx/conference call-in) of the Public Safety Officer Medal of Valor Review Board to consider nominations for the 2022–2023 Medal of Valor, and to make a limited number of recommendations for submission to the U.S. Attorney General to be cited. Additional issues of importance to the Board may also be discussed.

DATES: October 12, 2023, 12:30 p.m. to 3:00 p.m. EDT.

ADDRESSES: This meeting will be held virtually using web conferencing technology. The public may hear the proceedings of this virtual meeting/conference call by registering with Gregory Joy at last seven (7) days in advance with Gregory Joy (contact information below).

FOR FURTHER INFORMATION CONTACT: Gregory Joy, Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, by telephone at (202) 514–1369, or by email at *Gregory.joy@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

This virtual meeting/conference call is open to the public to participate remotely. For security purposes, members of the public who wish to participate must register at least seven (7) days in advance of the meeting/conference call by contacting Mr. Joy.

Access to the virtual meeting/conference call will not be allowed without prior registration. Please submit any comments or written statements for consideration by the Review Board in writing at least seven (7) days in advance of the meeting date.

Gregory Joy,

Policy Advisor/Designated Federal Officer, Bureau of Justice Assistance.

[FR Doc. 2023–19918 Filed 9–13–23; 8:45 am]

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DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1816]

Meeting of the Public Safety Officer Medal of Valor Review Board

AGENCY: Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA).

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting (via WebEx/conference call-in) of the Public Safety Officer Medal of Valor Review Board to cover a range of issues of importance to the Board, to include but not limited to: Membership/terms; Board Bylaws; program marketing and outreach.

DATES: November 15, 2023, 1:00 p.m. to 2:00 p.m. EST.

ADDRESSES: This meeting will be held virtually using web conferencing technology. The public may hear the proceedings of this virtual meeting/conference call by registering at last