on June 10, 2026, OUII filed a response in support of the motion. On June 24, 2026, the ALJ granted a motion filed by First Solar amending the procedural schedule and extending the target date. Order No. 16 (June 24, 2026), *unreviewed by* Comm'n Notice (July 24, 2026).

On June 25, 2026, the ALJ issued the subject ID (Order No. 18) granting Imperial's motion to intervene. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

The Commission vote for this determination took place on July 27, 2026.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 28, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–15426 Filed 7–29–26; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Joan Rubinger, N.P.; Decision and Order

I. Introduction

On June 17, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Joan Rubinger, N.P., of Stockton, California (Respondent). OSC/ISO, at 1. The OSC/ISO informed Respondent of the immediate suspensions of her DEA Certificates of Registration, Nos. MM3336422 (based in California) and MR5666106 (based in New York), alleging that Respondent's continued registration constitutes '' 'an imminent danger to the public health or safety.' '' *Id.* (quoting 21 U.S.C. 824(d)). The OSC/ISO proposed the revocation of both of Respondent's registrations because Respondent has committed such acts as would render her registrations inconsistent with the public interest. *Id.* (citing 21 U.S.C. 823(g)(1); 824(a)(4)).

Specifically, the OSC/ISO alleged that from 2019 until 2024, Respondent prescribed over 2,500 controlled substance prescriptions without proper state authority. *Id.* at 2, 3–4. In addition, the OSC/ISO alleged that Respondent prescribed controlled substances to a patient knowing that those substances were being diverted to another individual. *Id.* at 2, 4. Lastly, the OSC/ISO alleged that Respondent failed to maintain adequate and accurate records regarding the over 2,500 controlled substance prescriptions that she issued to patients.[1] *Id.* at 4. The OSC/ISO alleged that Respondent's above-described misconduct violated federal and state law. *Id.* at 2–4 (citing 21 CFR 1306.04(a); Cal. Bus & Prof. Code § 2242(a); Cal. Health & Safety Code § 11150; Cal. Health & Safety Code § 11154; Cal. Bus & Prof. Code § 2836.1(d); Cal. Code Regs. tit. 16, § 1474).[2]

An initial hearing was conducted on September 25, 2024. On September 26, 2024, Administrative Law Judge Paul E. Soeffing (the ALJ) issued an Order continuing the hearing and staying the proceedings pending resolution of an interlocutory appeal by the Government concerning the tribunal's rulings regarding four of the Government's exhibits.[3] The hearing was ultimately resumed and further conducted on December 10, 2024, and December 12, 2024.

On March 7, 2025, the ALJ issued his Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Recommended Decision or RD). The RD recommended that the Agency revoke Respondent's registrations. RD, at 80.[4] On April 3, 2025, Respondent filed Exceptions to the RD. The Agency adopts and hereby incorporates by reference the ALJ's credibility findings,[5] findings of fact, conclusions of law, sanctions analysis, and recommended sanction, and summarizes and clarifies portion thereof herein.

II. Public Interest Determination

A. Overview of Law

Congress enacted the Controlled Substances Act (CSA) ''to conquer drug abuse and control the legitimate and illegitimate traffic in controlled substances.'' *Gonzales* v. *Raich,* 545 U.S. 1, 12 (2005). A particular concern of Congress was ''the need to prevent the diversion of drugs from legitimate to illicit channels,'' and it ''devised a closed regulatory system making it

[1] Because of the substantial evidence of Respondent's unlawful dispensing, which includes acts of intentional diversion, this Decision and Order does not address the Government's recordkeeping allegations. The Agency has found that intentional acts of diversion ''strike[ ] at the CSA's core purpose of preventing the abuse and diversion of controlled substances,'' and that ''proof of a single act of intentional diversion is sufficient to support the revocation of a registration.'' *See Samuel Mintlow, M.D.,* 80 FR 3630, 3653 (2015) (citing *Dewey C. MacKay, M.D.,* 75 FR 49956, 49977 (2010).

[2] The Agency need not adjudicate the criminal violations alleged in the OSC/ISO. *Ruan* v. *United States,* 597 U.S. 450 (2022) (decided in the context of criminal proceedings).

[3] *See* Order Continuing Hearing, Staying Proceedings, and For Briefing of Government's Interlocutory Appeal.

[4] On March 20, 2025, Respondent voluntarily surrendered for cause both her California and New York DEA registrations. On April 1, 2025, Respondent filed a Motion to Dismiss or Terminate Administrative Proceedings Based on Voluntary Surrender for Cause (Motion to Dismiss), arguing that the case was moot because Respondent had surrendered her DEA registrations. On April 3, 2025, the Government filed a motion requesting that the ALJ deny Respondent's Motion to Dismiss and continue the proceedings. *See* Government's Motion Requesting the Tribunal Certify the Record to DEA's Acting Administrator. On April 3, 2025, the ALJ issued an Order denying Respondent's Motion to Dismiss. *See* Order Denying Respondent's Motion to Dismiss or Terminate Proceedings. Respondent renewed her mootness arguments in her Exceptions.

The Agency agrees with the ALJ's denial of Respondent's motion to dismiss and rejects Respondent's exception regarding mootness. The Agency has determined that its jurisdiction to adjudicate a matter to finality is not dependent on whether the respondent has an active DEA registration. *Jeffrey D. Olsen,* 84 FR 68474, 68475–80 (2019). Instead, the Agency's jurisdiction in an administrative action is over the *registrant,* not the *registration. See Abdul Naushad, M.D.,* 89 FR 54059, 54060 (2024) (''[O]ne way that the Administrator carries out the CSA is by investigating and administratively adjudicating *a registrant's* CSA-relevant actions and inactions. When the registrant's actions or inactions call for it, the sanction may be suspension or revocation of the registrant's registration. 21 U.S.C. 824(a). While the sanction involves the registration, the sanction is levied on the *registrant* and remains in the record throughout the rest of the registrant-Agency relationship, regardless of whether that relationship is either continuous or intermittent'') (emphasis added). When it serves the Agency's and the registrant's interests to litigate an expired registration to finality—for example, when a respondent intends to engage in regulated activity in the future, and memorializing a registrant's compliance (or non-compliance) with the CSA will aid the Agency's future relationship with the registrant—the Agency has determined that issuing a final order may be done in a manner that is with the Constitution, the CSA, applicable legal authority, and sound law enforcement principles. *Jeffrey D. Olsen,* 84 FR at 68475–80.

Here, adjudicating the matter to finality will achieve similar goals as in *Olsen;* it will support future interactions between the Agency and Respondent, inform current and prospective members of the registrant community about the Agency's expectations, provide continuing education to all DEA personnel, help coordinate law enforcement efforts, and informs stakeholders, such as legislators and the public, about the Agency's work. *Olsen,* 84 FR at 68479. Moreover, where, as here, a registrant has surrendered her registration after availing herself of the hearing process and receiving an unfavorable decision, the Agency has determined that failing to adjudicate the matter to finality ''would be contrary to [the Agency's] duties under the CSA [and] allow the usurpation of the Agency's enforcement mission.'' *Kotsonis, 85 FR* at 85668–69.

[5] The Agency adopts the ALJ's summary of each witness's testimony, as well as the ALJ's assessment of each witness's credibility. *See* RD, at 3–41.

unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Id.* at 12–13.

The CSA's requirements under this closed regulatory system include that ''every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the [DEA] a registration.'' 21 U.S.C. 822(a)(2); *see also Gonzales* v. *Raich,* 545 U.S. at 27–28. To protect the American people and ensure compliance with the CSA, Congress empowered the Agency to deny, suspend, or revoke a registration if it would be inconsistent with the public interest. 21 U.S.C. 823(g)(1); 21 U.S.C. 824(a)(4); *Gonzales* v. *Oregon,* 546 U.S. 243, 251 (2006).

In determining whether registrant's registration is inconsistent with the public interest, the Agency analyzes five statutorily established ''public interest factors.'' *Gonzales* v. *Oregon,* 546 U.S. at 251; 21 U.S.C. 823(g)(1)(A–E). The five factors are:

> (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)(A–E).

These five public interest factors are considered in the disjunctive. *Gonzales* v. *Oregon,* 546 U.S. at 292–93 (Scalia, J., dissenting); *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). Each factor is weighed on a case-by-case basis. *David H. Gillis, M.D.,* 58 FR 37507, 37508 (1993). Any one factor, or combination of factors, may be decisive, *David H. Gillis, M.D.,* 58 FR at 37508, and the Agency ''may give each factor the weight . . . deem[ed] appropriate in determining whether a registration should be revoked or an application for registration denied.'' *Morall* v. *Drug Enf't Admin.,* 412 F.3d 165, 185 n.2 (D.C. Cir. 2005) (Henderson, J., concurring) (quoting *Robert A. Smith, M.D.,* 70 FR 33207, 33208 (2007)); *see also Penick Corp.* v. *Drug Enf't Admin.,* 491 F.3d 483, 490 (D.C. Cir. 2007).

Moreover, while the Agency is required to consider each of the factors, it ''need not make explicit findings as to each one.'' *MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman* v. *U. S. Drug Enf't Admin.,* 567 F.3d 215, 222 (6th Cir. 2009)); *Jones Total Health Care Pharmacy, LLC* v. *Drug Enf't Admin.,* 881 F.3d 823, 830 (11th Cir. 2018); *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d 477, 482 (6th Cir. 2005). ''In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct.'' *Jayam Krishna-Iyer, M.D.,* 74 FR 459, 462 (2009). Accordingly, Agency decisions have explained that findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821.

The Government has the burden of proof in this proceeding, 21 CFR 1301.44(e), and the Agency must make its findings based on ''substantial [record] evidence.'' 5 U.S.C. 556(d); *see also* 5 U.S.C. 706(2); 21 U.S.C. 877. If the Government meets its burden of establishing a *prima facie* case that Respondent's registration is not in the public interest, then the burden shifts to the Respondent to rebut the Government's case. *Pharmacy Doctor Enterprises,* 789 Fed. Appx. at 729 (citing *Jones Total Health Care Pharmacy,* 881 F.3d at 830).

In this matter, the Government's evidence is confined to Factors B and D. ALJX 1, at 3. Evidence is considered under Factors B and D when it reflects experience dispensing controlled substances and compliance or non-compliance with laws related to controlled substances. *Kareem Hubbard, M.D.,* 87 FR 21156, 21162 (2022). To determine whether Respondent's continued registration is in the public interest, the Agency has evaluated the Government's allegations of Respondent's non-compliance with applicable federal and state laws.

B. Allegation That Respondent Unlawfully Prescribed Controlled Substances

i. Applicable Law and Standard of Care

According to the CSA's implementing regulations, a lawful controlled substance 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); *see Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006); *United States* v. *Hayes,* 595 F.2d 258 (5th Cir. 1979), *rehearing den.,* 598 F.2d 620 (5th Cir. 1979), *cert. denied,* 444 U.S. 866 (1979). ''A practitioner must establish and maintain a *bona fide* doctor-patient relationship in order to act 'in the usual course of . . . professional practice' and to issue a prescription for a 'legitimate medical purpose.' '' *Dewey C. MacKay, M.D.,* 75 FR 49956, 49973 (2010).

Similarly, California regulations prohibit practitioners from ''knowingly prescrib[ing] . . . or furnish[ing] a controlled substance to or for any person . . . not under [their] treatment for a pathology or condition other than addiction to a controlled substance.'' Cal. Health & Safety Code § 11154(a). California regulations also define unprofessional conduct to include ''[p]rescribing, dispensing, or furnishing [controlled substances] without an appropriate prior examination and a medical indication.'' Cal. Bus. & Prof. Code § 2242(a).[6]

Regarding the basic requirements for nurse practitioners to prescribe controlled substances, California regulations state that nurse practitioners may only issue prescriptions if they are acting within the scope of Cal. Bus. & Prof. Code § 2836.1, which requires ''physician . . . supervision.'' Cal. Health & Safety Code § 11150. Physician supervision includes: ''(1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.'' [7] Cal. Bus. & Prof. Code § 2836.1(d). California regulations outline the requirements of the standardized procedure including, among other things, that it be in ''writing, dated, and signed''; specify the functions the nurse may perform; ''establish a method for initial and continuing evaluation of the [nurse's] competence''; specify patient recordkeeping requirements; and provide for periodic review. Cal. Code Reg. tit. 16, § 1474(b)(1), (10). The standardized procedure must also ''specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, [and] under what circumstances.'' Cal. Bus. & Prof. Code § 2836.1(c)(1).

For Schedule II drugs, the standardized procedure ''shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.'' *Id.* at § 2836.1(c)(2). Further, when

[6] This code section was amended in October 2019, during the timeframe that the relevant misconduct in this case took place; however, there were no relevant, substantive modifications to this regulation in 2019.

[7] ''Physician . . . supervision'' does not require the physician to be physically present.

Schedule II or III controlled substances are ''furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician'' and ''[a] copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided, upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.'' *Id.* at § 2836.1(f)(2).

The Government's expert witness, Ms. Guijo,[8] testified in more detail about standardized procedures. Ms. Guijo testified that in California, nurses are considered ''registered nurses'' until they implement standardized procedures, at which time they are considered ''nurse practitioners'' authorized to prescribe controlled substances.[9] Tr. 253; RD, at 13. Consistent with the California Code summarized above, Ms. Guijo testified that a standardized procedure is a ''contractual agreement, or a formal agreement, that is in written form'' and ''dated and signed by the organized healthcare system personnel authorized to approve it . . . [which] would include the supervising physician.'' Tr. 252, 263–64; RD, at 13–14. Ms. Guijo testified that pursuant to the applicable laws, standardized procedures must outline the scope of the medical practice, the policy for the relevant department or organization, and protocols based on the specialty of the nurse practitioner. Tr. 262; GX 10(c); RD, at 13, 13 n.53.

ii. Findings of Fact

Respondent is a board-certified nurse practitioner registered with DEA in California and New York. Tr. 367; RD, at 22. Respondent testified that she considers her practice to be a ''concierge practice'' where she primarily treats athletes, travels frequently, and sets up treatment locations in hotels or at her home residence. Tr. 40, 399–401; RD, at 4, 24.

1. Respondent Was Not Authorized To Prescribe Controlled Substances in California Because She Did Not Have a Standardized Procedure or a Supervising Physician

Although Respondent testified that she had a ''collaborating physician,'' [10] Dr. W.,[11] and they had a standardized procedure that included all the necessary information, Tr. 374, 376, 423–24, 428; RD, at 25, 27, Respondent testified that the standardized procedure was implemented ''well over ten years ago'' and she had lost her copy. Tr. 374–75, 423, 42; RD, at 25, 27. Respondent testified that this document was ''informal[,] . . . just a single piece of paper . . . with many bullet points outlining'' Dr. W.'s role, including ''offering input and feedback, taking a look at images, consulting on more complicated issues or cases[,] . . . taking referrals of patients, talking with [Respondent] and [her] patients[,] . . . [and] participating in [patient] care if needed.'' Tr. 374–75; RD, at 25.

Dr. W. testified at the hearing and denied ever having a formal supervisory relationship with Respondent or a standardized procedure with Respondent. *E.g.,* Tr. 188; RD, at 9 (Dr. W. testifying that he ''[does not] believe that [he] was ever a supervising physician, other than to agree to occasional calls and conversations about specific patients''). Dr. W. testified that Respondent shadowed him for three months about 10 or 15 years ago and they had stayed in contact since.[12] Tr. 183–84; RD, at 7–8. Dr. W. testified that he communicated with Respondent approximately every three to six months when she ''would occasionally send [him] either an x-ray, or sometimes a video, of the people that she would be seeing in her job.'' Tr. 185; RD, at 8, 26; *see also* Tr. 379–80 (Respondent's testimony about frequent collaboration with Dr. W. on complicated issues). Dr. W. testified that ''there were a couple of occasions where [he and Respondent] had three-way phone calls, or text message chains that went back and forth, from patients that she had seen somewhere.'' Tr. 186; RD, at 8. Dr. W. testified that he gave Respondent his opinion about x-rays ''probably twice,'' and on one occasion he provided a signature authorizing radiology testing for one of Respondent's patients. Tr. 216–18, 224–25; RX 1, at 5; RD, at 9–10, 10 n.39.

Dr. W. testified that he was only aware of one prescription [13] that Respondent issued between the time when she first began her practice until December 2023 and he was not aware of any prescriptions written by Respondent after December 2023. Tr. 226–30; RD, at 10–11. Dr. W. testified that he consulted with Respondent because of their personal relationship [14] and because he trusted her judgment. Tr. 225–26; RD, at 10. Dr. W. agreed that he and Respondent had ''a working dialogue and free exchange of ideas'' about Respondent's patients but reiterated that it was limited to ''about every six months.'' Tr. 222; RD, at 10.

Dr. W. testified that he did not recall reviewing any medical records for Respondent's patients other than specific records she sent over text message. Tr. 187, 480; RD, at 8, 36. Dr. W. testified that he and Respondent had an agreement that Respondent could call him anytime to ''talk about whatever situations [came] up,'' but he ''[did not] recall any kind of formal agreement saying, yes, I will be your collaborator, or supervisor.'' [15] Tr. 196;

[8] Ms. Guijo is a certified family nurse practitioner in California, specializing in addiction medicine. Tr. 235–37; RD, at 11–12.

[9] Respondent acknowledged that nurse practitioners must have a standardized procedure with a physician and testified about the components of a standardized procedure. Tr. 421–24, 427–28; RD, at 27. Respondent also acknowledged that a standardized procedure is an important document that should be kept ''close by.'' Tr. 423, 428; RD, at 27.

[10] Respondent testified that she considered a ''collaborating physician'' to be a supervising practitioner that offers input and feedback when asked, is available ''if and when need[ed]'' for consultation on complicated cases, can provide opinions on ''imaging studies,'' and otherwise ''participate[s] in a free exchange of ideas regarding patient care.'' Tr. 279; RD, at 25 n.86.

[11] Dr. R. W. is an orthopedic surgeon licensed and registered in California who has been practicing medicine for approximately 34 years. Tr. 180–81; RD, at 7.

[12] Dr. W. allowed Respondent to have items mailed to his office and Respondent stopped by periodically to pick up such mail. Tr. 184–85; RD, at 8.

[13] Dr. W. testified that he had a text message conversation with Respondent regarding a prescription for oxycodone-acetaminophen (a Schedule II opioid) for one of Respondent's patients. Tr. 226–27; RD, at 3 (stip. 10), 10 n.43. This conversation occurred after he was contacted by an Ohio pharmacy because the pharmacy was unable to fill an out-of-state prescription written by Respondent. Tr. 228; RX 1, at 19; RD, at 10 n.43. Dr. W. testified that he did not know why the prescription was written, did not know who the patient was, and was unsure of how the pharmacy received his contact information. Tr. 227–29; RD, at 10 n.43. He speculated that it was because Respondent printed his name and practice information on her prescription pads and noted that he did not know why Respondent had his name and practice information on her prescription pads. *Id.* When told that Respondent had prescribed drugs such as phentermine and dextroamphetamine, Dr. W. testified that he did not know anything about those drugs other than knowing that phentermine was used for weight loss. Tr. 230; RD, at 11.

[14] Respondent testified that she and Dr. W. ''had a friendship'' and she ''knew his wife and kids.'' Tr. 381; RD, at 26. Respondent also testified that she would gift Dr. W. things like signed jerseys, paraphernalia from athletes, game tickets, ''and that sort of thing as a thank you for all that he [had] done as a supervisor.'' Tr. 371; RD, at 26.

[15] Respondent testified that her standardized procedures with Dr. W. were implemented over a decade ago and thus likely ''hard to recall . . . for him.'' Tr. 523; RD, at 39. Respondent reiterated that the standardized procedures were ''simple'' and were an outline of the practice arrangement. Tr. 523–24; RD, at 39. Respondent testified that she believes that ''maybe at some point [Dr. W.] and

RD, at 9. Dr. W. testified that he only learned of the requirements for nurse practitioners to maintain a standardized procedure a few months before the hearing and that he had never discussed with Respondent his responsibilities with respect to her practice as a nurse practitioner; never had anything in writing with Respondent outlining a professional relationship; never had anything in writing with respect to how Respondent should keep medical records; never had an agreement concerning continuing evaluation of Respondent; and never evaluated Respondent or her medical practice. Tr. 189–90, RD, at 9. Tr. 188–90; RD, at 8–9.

Ms. Guijo testified that, in her opinion, Respondent lacked authority to prescribe controlled substances in California because Dr. W. was not her supervising physician and Respondent lacked a ''formal agreement, which is the standardized procedure.'' Tr. 264; RD, at 14. Ms. Guijo's testimony is consistent with California's regulations, which require that standardized procedures be in writing and outline the terms and scope of the professional relationship. *See supra,* II.B.i. (citing Cal. Code Reg. tit. 16, § 1474(b)(1), (10)). Ms. Guijo's testimony is also consistent with Dr. W.'s credible testimony that he did not have a formalized supervisory relationship with Respondent or a standardized procedure with Respondent.

Respondent testified in depth about the circumstances surrounding her relationship with Dr. W. that led her to view Dr. W. as her ''collaborating physician''—which she equated with a ''supervising physician''—such as Dr. W. allowing her to use his office address on her DEA registration and prescription pads, Dr. W.'s willingness to consult on difficult cases, and his occasional review of x-rays and medical files. *See* RD, at 24–28. However, California requires a formalized, written agreement between the registered nurse and supervising physician, which must be available upon pharmacist request when Schedule II controlled substances are prescribed. Respondent's failure to produce a standardized procedure, highly exculpatory evidence, supports a presumption that this document does not exist or would be unfavorable to her if produced. *See, e.g., Huthnance* v. *DC,* 722 F.3d 371, 378 (D.C. Cir. 2013) (''Respondent's decision not to provide records gives rise to an inference that any such evidence is unfavorable to Respondent.'')), *Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am. (UAW)* v. *Nat'l Labor Relations Bd.,* 459 F.2d 1329, 1336 (D.C. Cir. 1972) (''Simply stated, the rule provides that when a party has relevant evidence within his control which he fails to produce, that failure gives rise to an inference that the evidence is unfavorable to him.''); *Gulf Med Pharmacy,* 86 FR 72694, 72729 (2021) (inferring that the ''failure to provide highly exculpatory documentation [showing that red flags were resolved] suggests it does not exist''); RD, at 54–55, 58 (drawing an adverse inference based on Respondent's failure to produce a standardized procedure). This presumption is supported by Dr. W.'s credible testimony that he did not have a formalized supervisory relationship with Respondent and that they never executed a standardized procedure.

Additionally, as the ALJ discussed in depth in the RD, it was clear from Dr. W.'s testimony that he did not conduct the supervision required under a standardized procedure, such as evaluating Respondent's competence, conducting a periodic review of the standardized procedure, or implementing procedures related to Respondent's controlled substance prescribing. RD, at 52–58. Indeed, Dr. W. was not even aware of the controlled substances that Respondent was prescribing other than one single prescription for which he received a call from the pharmacy. Tr. 226–30; RD, at 56–57. Accordingly, while Respondent may have valued Dr. W.'s feedback and viewed him as a resource to support her practice, Respondent did not have the requisite standardized procedure or formal supervisory relationship to be authorized to prescribe controlled substances in California. *See* RD, at 47, 52–58. As the ALJ observes, ''A supervising physician is not a position that one stumbles into on account of their relationship with a nurse practitioner. It is a statutory and contractual designation, which requires not only collaboration and availability for consultation, but also ''approval of . . . standardized procedure[s].'' RD, at 58 (citing Cal. Bus. & Prof. Code § 2836.1(d)).

Accordingly, the Agency agrees with the ALJ and concludes, based on substantial record evidence, that Respondent did not have a supervising physician or a standardized procedure during the timeframe at issue (April 2019 to April 2024), and, therefore, that Respondent was not authorized to prescribe controlled substances in California. RD, at 52–55.

2. Respondent Issued Over 2,500 Prescriptions Without State Authority Between April 2019 and March 2024

Respondent issued over 2,500 prescriptions for controlled substances between April 2019 and March 2024. GX 5(a), (b); RD, at 29, 44–45, 58, 68–69; *see also* Tr. 428–29; (Respondent's testimony acknowledging that she issued these prescriptions). These prescriptions included Schedule IV stimulants (*e.g.,* phentermine), Schedule IV benzodiazepines (*e.g.,* alprazolam), and Schedule II opioids (*e.g.,* oxycodone, methadone, hydrocodone-acetaminophen). GX 5(a), (b), 8(a); ALJX 13 at 4, Stip. 6; RD, at 29, 68–69. Accordingly, the Agency agrees with the ALJ, and finds based on substantial record evidence, that Respondent issued over 2,500 prescriptions for controlled substances without state authority between April 2019 and March 2024. The Agency further agrees with the ALJ, and finds based on substantial record evidence, that these prescriptions were issued outside the usual course of professional practice.[16]

3. Respondent Issued at Least 23 Prescriptions to K.D. Knowing That They Would Be Diverted

One of Respondent's patients, T.D., is a retired professional athlete. Tr. 328; RD, at 18. T.D.'s wife, K.D., testified at the hearing about Respondent's relationship with T.D. K.D. testified that she learned about Respondent around September or October of 2019 when she and T.D. moved to California and she saw Respondent's name on medicine bottles prescribed to T.D.[17] Tr. 329–30, 334; RD, at 18–19, 19 n.66. T.D. told K.D. that Respondent ''was a doctor for a lot of athletes'' and that he had met her through another professional

[her] were looking at the same thing through two different lenses . . . and . . . [Dr. W.] may have had a different impression of [the] arrangement.'' Tr. 405; RD, at 26. Respondent also testified that her text messages with Dr. W. do not reference him as her supervising physician because ''that agreement was made in 2014, [but the] text messages only go back to 2017.'' Tr. 410–11; RX 1; RD, at 26. Respondent testified that Dr. W. trusted her judgment and she and Dr. W. did not see any reason to do an annual review or update the practice arrangement. Tr. 524; RD, at 39. Respondent reiterated her belief that ''it was just two people having a different impression of the arrangement . . . [and] it just comes down to a simple misunderstanding.'' Tr. 524; RD, at 39.

[16] ''A [practitioner] who engages in the unauthorized practice of [his profession] is not a 'practitioner acting in the usual course of professional practice.' '' *United Prescription Servs., Inc.,* 72 FR 50397, 50407 (2007). ''A controlled-substance prescription issued by a [practitioner] who lacks the license necessary to practice [his profession] within a State is therefore unlawful under the CSA.'' *Id.*

[17] The investigation into Respondent's prescribing was initiated based on a tip submitted by K.D. to DEA's tip line. Tr. 30–31; RD, at 3–4.

athlete. Tr. 329–30; RD, at 19.[18] K.D. testified that T.D. continued to receive treatment from Respondent after they moved to North Carolina. Tr. 331; RD, at 19. At some point after the move, K.D. researched Respondent and realized that she was not a doctor. *Id.* T.D. offered for K.D. to meet Respondent ''since [she did not] think that [Respondent] actually exist[ed] or that [Respondent was] a doctor.'' Tr. 331–32; RD, at 19.

K.D. testified that she met Respondent once, in June 2020, at a Marriott hotel in Charlotte, North Carolina,[19] when she accompanied T.D. for his appointment. Tr. 331–32, 334, 348–49; RD, at 19, 19 n.67–68. K.D. passed another professional athlete in the hallway leading to the hotel room where she met with Respondent. *Id.* K.D. testified that in the hotel room, she met Respondent and her son, and the room ''was a whole set up with . . . IV things and suitcases with stuff in them and medicine, little syringes and bottles and things like that.'' Tr. 332–33; RD, at 19–20.

K.D. testified that she was in the hotel room for about 15 minutes while she asked questions about Respondent's practice and the injections Respondent was giving T.D. Tr. 333; RD, at 20, 20 n.69. K.D. testified that during this conversation, T.D. told her to disclose to Respondent shoulder and back pain she had been experiencing, to which Respondent stated that she could ''give [K.D.] a shot to help.'' Tr. 333; RD, at 20. K.D. testified that although she was hesitant to receive the injection, she ultimately did so. Tr. 333, 348; RD, at 20. K.D. testified that Respondent did not perform a physical examination or inquire about her medical history,[20] and K.D. did not receive any paperwork in connection with this encounter.[21] Tr. 334, 346–47; RD, at 20, 20 n.71. K.D. testified that the June 2020 meeting was the only time she met Respondent and Respondent never treated her via telehealth or over the phone.[22] Tr. 331, 334, 348; RD, at 19, 19 n.67.

About two years after her initial encounter with Respondent, K.D. learned that Respondent had been issuing regular opioid prescriptions in her name without her knowledge. In February of 2022, K.D. went to the emergency room of a hospital in Waxhaw, North Carolina with extreme chest pain, fainting spells, and headaches. Tr. 335–36, 339; RD, at 20. While undergoing testing at the hospital, K.D. was informed by a doctor at the hospital that she would ''not get[] any more pain medicine.'' Tr. 335; RD, at 20. K.D. testified that, upon further inquiry, the doctor reiterated that the hospital would not prescribe her ''any more pain medication,'' but would ''run some more tests.'' Tr. 336; RD, at 20. K.D. was confused by the doctor's statement and informed the doctor that she had not come to the hospital for pain medication. Tr. 336; RD, at 20. K.D. testified that a nurse, seeing her apparent confusion, informed K.D. that she was ''red flagged for having been written too many pain medication prescriptions.'' Tr. 337. The nurse brought K.D. a printout showing prescriptions dispensed to K.D. over the past year by pharmacies in the vicinity of the hospital. Tr. 337; GX 7; RD, at 20. The record demonstrates that Respondent issued at least 23 prescriptions to K.D. for oxycodone-acetaminophen 10–325mg (a Schedule II opioid) between November 2019 and February 2022. GX 5(a), at 7–33; RD, at 59. Four of these prescriptions were written for K.D. before K.D. met Respondent in June 2020. GX 5(a), at 1–12; GX 6(b); RD, at 65 n.150. K.D. testified that the prescriptions were unfamiliar to her and she had not authorized Respondent to write prescriptions for her. Tr. 342; GX 6(a), (c); RD, at 21. K.D. further testified that the Walgreens and CVS prescriptions contained cell phone numbers belonging to T.D. and that none of the numbers were associated with her. Tr. 342–45; GX 6(a) at 8, 16; RD, at 21.

K.D. testified that she started crying, showed T.D. a picture of the printout, and immediately contacted Respondent using the social media app Instagram because she did not have Respondent's telephone number. Tr. 337, 339–40, 506; RD, at 21. Through Instagram, K.D. told Respondent that she had just found out that Respondent had been writing prescriptions in her name, and wrote, ''This is insane. I can't believe you. You clearly know [T.D.] has a problem. Why would you do this?'' GX 18, at 1. Respondent apologized and said she ''thought [T.D.] had cleared this with [her],'' assured K.D. that she was prescribing T.D. ''a very stable number per month,'' asked K.D. ''[p]lease don't punish me,'' and gave K.D. her phone number. *Id.* K.D. also called Respondent and asked her why she had written prescriptions in her name because she had never been Respondent's patient. Tr. 346; RD, at 21.

K.D. testified that she had observed bottles prescribed by Respondent bearing T.D.'s name but had never seen any bottles bearing her own name. Tr. 349; RD, at 21. K.D. testified that she knew of the pharmacies where the prescriptions issued to her were filled, but none of them had ever contacted her regarding the prescriptions. Tr. 349–50; RD, at 21. K.D. further testified that she does not know who picked up the prescriptions. Tr. 350; RD, at 21.

Although Respondent generally maintained that the prescriptions she issued to K.D. were based on a legitimate practitioner-patient relationship and multiple examinations, Respondent admits to one instance where she issued a prescription to K.D. knowing that the prescription would be diverted to T.D. Tr. 456; RD, at 34. Respondent testified that this occasion involved a ''severe issue'' and a ''very unique circumstance'' in which T.D. called Respondent in ''severe distress'' while he was traveling for his broadcasting job. Tr. 456–57; RD, at 34. T.D. called Respondent and indicated that he had ''lost the medication or left his medication in a hotel or something, [and] couldn't access it,'' and ''practically begged'' Respondent to write a prescription in K.D.'s name because otherwise he would have to ''wait for his next fill'' for another 25 to 26 days. Tr. 457; RD, at 34. Respondent testified that she told T.D. that she would write the prescription ''as long as . . . [K.D. was] okay with it.'' Tr. 457. Respondent acknowledged that this was ''not necessarily a kosher thing to do,''

[18] K.D. testified that T.D. initially referred to Respondent as ''his chiropractor'' and that Respondent treated T.D. for injuries received during his career as a professional athlete. Tr. 347; RD, at 19. K.D. reiterated that T.D. did not tell her that Respondent was a nurse practitioner. Tr. 348; RD, at 19.

[19] Respondent admitted that she was not registered with DEA in North Carolina nor was she licensed as a medical professional in North Carolina. Tr. 467. Although Respondent ultimately admitted that it was unlawful for her to use her California license to issue prescriptions outside of California, she testified that it was difficult for her to know what was ''improper'' because pharmacies filled her out-of-state prescriptions. Tr. 522, 526; RD, at 40–41.

[20] Respondent testified that she physically examined K.D. and took ''a little bit of a history.'' Tr. 396–97; RD, at 31, 31 n.97. The Agency, like the ALJ, credits K.D.'s consistent and reliable testimony that Respondent did not examine her or take a history. RD, at 22, 35 n.111, 35–36, 47, 71.

[21] K.D. further testified that she found out from her chiropractor that the injection she received was an anti-inflammatory medication. Tr. 333–34; RD, at 20 n.70. K.D. testified that she was not aware that Respondent had prescribed her further anti-inflammatory medication after this visit. Tr. 349; RD, at 21.

[22] Respondent offered inconsistent and self-serving testimony about when and how many times she met with Respondent. *See* RD, at 30–33. The Agency agrees with the ALJ that Respondent's testimony about K.D. was internally inconsistent, conflicted with the documentary evidence, and conflicted with K.D.'s consistent and credible testimony that K.D. only met Respondent once. RD, at 22, 35 n.111, 35–36, 47, 63–64, 71.

but ''being a paraplegic,[23] [she is] very sensitive to the issue of pain'' and was just ''trying to help.'' Tr. 457. Respondent also testified that her emergency room experience allows her to recognize drug-seeking behavior and she does not ''take on patients that appear to be drug seekers.'' Tr. 458. Respondent testified that T.D.'s excuse was ''legitimate'' and he was ''in severe distress and pain.'' Tr. 458. Respondent testified that T.D. suffered from life-long pain from his career as a professional football player. Tr. 457; RD, at 34.

Respondent testified that this was the ''only occasion [she has] ever put medication in someone else's name,'' and that all of the other prescriptions she issued to K.D. were for K.D. Tr. 458; RD, at 35. She further testified that if the prescriptions ''were being diverted, [she] was completely unaware.'' Tr. 458–59; RD, at 35. When asked why she did not issue a replacement prescription in T.D.'s own name upon learning of his issue, Respondent stated that ''because he was fairly early in his cycle . . . [he] [could not] fill controlled substances for . . . a 30-day period . . . [so] [h]e would have had to wait another 25, 26 days or so for a refill.'' Tr. 460. Respondent testified that she did not speak with K.D. personally, but that T.D. represented multiple times that K.D. was ''cool with'' the prescription for T.D. to be written in her name. Tr. 459–60; RD, at 61. Respondent also acknowledged that, even if she had received permission from K.D., it was still unlawful to issue a prescription for T.D. in K.D.'s name. Tr. 461; RD, at 34 n.110.

The Agency agrees with the ALJ and finds based on substantial record evidence that Respondent issued at least 23 prescriptions to K.D. without K.D.'s knowledge, without a *bona fide* practitioner-patient relationship, and to a patient not under Respondent's care. The Agency finds based on substantial record evidence that Respondent issued at least four of these prescriptions before meeting K.D. in June 2020, and, therefore, without an appropriate prior examination or medical indication. *See* RD, at 64–66. The Agency finds that on at least one occasion, Respondent issued a prescription to K.D. knowing that it would be diverted to T.D. Finally, the Agency agrees with the ALJ and finds that all 23 prescriptions that Respondent issued to K.D. were issued outside the usual course of professional practice.[24] RD, at 66.

iii. Conclusions of Law

The Agency found above that between 2019 and 2024, Respondent issued over 2,500 prescriptions for controlled substances without a supervising physician or standardized procedure, and, therefore, without state authority. The Agency further found that these prescriptions were issued outside the usual course of professional practice.

Additionally, the Agency found that Respondent issued at least 23 prescriptions to K.D. without K.D.'s knowledge, without a *bona fide* practitioner-patient relationship, and to a patient not under Respondent's care. The Agency found that these prescriptions were issued outside the usual course of professional practice. Finally, the Agency found that on at least one occasion, Respondent issued a prescription to K.D. knowing that it would be diverted to T.D., and on at least four occasions, Respondent issued prescriptions to K.D. without an appropriate prior examination or medical indication. Accordingly, the Agency finds substantial record evidence that Respondent violated 21 CFR 1306.04(a); Cal. Health & Safety Code § 11150; Cal. Health & Safety Code § 11154; Cal. Bus & Prof. Code § 2836.1(d); Cal. Code Regs. tit. 16, § 1474). The Agency also finds that Respondent engaged in unprofessional conduct under California law. Cal. Bus & Prof. Code § 2242(a).[25]

C. Public Interest Conclusion

While the Agency considered all the public interest factors of 21 U.S.C. 823(g)(1), its findings are relevant to Factor B (experience dispensing controlled substances) and Factor D (compliance or non-compliance with laws related to controlled substances). 21 U.S.C. 823(g)(1); *Kareem Hubbard, M.D.,* 87 FR at 21162 (2022).

Accordingly, the Agency finds that after considering the public interest factors, the Government satisfied 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). The Agency further finds that there is insufficient mitigating evidence to rebut the Government's *prima facie* case. Thus, the only remaining issue is whether revocation of Respondent's registration is the appropriate sanction.

III. Sanction

Where, as here, the Government has met the burden of showing that Respondent's registration is inconsistent with the public interest, the burden shifts to Respondent to show why she can be entrusted with a registration. *Morall,* 412 F.3d. at 174; *Jones Total Health Care Pharmacy,* 881 F.3d at 823, 830; *Garrett Howard Smith, M.D.,* 83 FR 18882, 18904 (2018). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual registrant. *Jeffrey Stein, M.D.,* 84 FR 46968, 46972 (2019); *see also Jones Total Health Care Pharmacy,* 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, the Agency requires that a registrant who has committed acts inconsistent with the public interest accept responsibility for those acts and demonstrate that he will not engage in future misconduct. *See Jones Total Health Care Pharmacy,* 881 F.3d at 833; *ALRA Labs, Inc.* v. *Drug Enf't Admin.,* 54 F.3d 450, 452 (7th Cir. 1995). The Agency requires a registrant's unequivocal acceptance of responsibility. *Janet S. Pettyjohn, D.O.,* 89 FR 82639, 82641 (2024); *Mohammed Asgar, M.D.,* 83 FR 29569, 29573 (2018); *see also Jones Total Health Care Pharmacy,* 881 F.3d at 830–31. In addition, a registrant's candor during the investigation and hearing is an important factor in determining acceptance of responsibility and the appropriate sanction. *See Jones Total Health Care Pharmacy,* 881 F.3d at 830–31; *Hoxie,* 419 F.3d at 483–84. Further, the Agency considers the egregiousness and extent of the misconduct as significant factors in determining the appropriate sanction. *See Jones Total Health Care Pharmacy,* 881 F.3d at 834 & n.4. The Agency also considers the need to deter similar acts by a registrant and by the community of registrants. *Jeffrey Stein, M.D.,* 84 FR at 46972–73.

Here, the Agency agrees with the ALJ that Respondent did not unequivocally accept responsibility for her misconduct. RD, at 73–78. As the ALJ

[23] Respondent suffered a serious injury in August of 2015 that resulted in paralysis from the chest down. Tr. 384; RD, at 22 n.77.

[24] Respondent did not have a *bona fide* practitioner-patient relationship with K.D. and, therefore, was not acting ''as a physician.'' Accordingly, these prescriptions were issued outside the usual course of professional practice and in violation of 21 CFR 1306.04. *See, e.g., United States* v. *Moore,* 423 U.S. 122 (1975) (''Implicit in the registration of a physician is the understanding that he is authorized only to act 'as a physician.' '').

[25] Each of Respondent's CSA violations provides a sufficient basis for the Agency to revoke her registration. The Agency has found that intentional acts of diversion—such as Respondent's prescription to K.D. that Respondent knew would be diverted to T.D.—''strike[ ] at the CSA's core purpose of preventing the abuse and diversion of controlled substances,'' and that ''proof of a single act of intentional diversion is sufficient to support the revocation of a registration.'' *See Samuel Mintlow, M.D.,* 80 FR 3630, 3653 (2015) (citing *Dewey C. MacKay, M.D.,* 75 FR 49956, 49977 (2010).

observed, ''DEA precedent is clear that '[c]andor to the court is of paramount important.' '' *Stephen E. Owusu, D.P.M.,* 87 FR 3343, 3349 (2022); RD, at 74. ''[I]mplausible aspects of Respondent's testimony . . . demonstrate a lack of candor.'' *Id.* at 3350; RD, at 74. As already discussed, Respondent offered testimony that was wholly inconsistent with the testimony of other witnesses with significantly less at stake in these proceedings. Although Respondent acknowledged these discrepancies, she classified them as ''misunderstanding[s]'' or mere differences in recollection. Tr. 405, 448, 524; RD, at 74.

For example, Respondent testified that Dr. W. must have forgotten that they had implemented a standardized procedure because it was over a decade ago. Tr. 374–75, 423; RD, at 25, 27, 74. Respondent also dismissed Dr. W.'s testimony that he was not aware of Respondent's controlled substance prescribing, testifying that ''nurse practitioner supervision [is] a lot [looser] than . . . physician assistant supervision'' and emphasizing that Dr. W. had access to her patient records and could review them if he wanted to. Tr. 412–13; RD, at 26–27. Dr. W. denied having access to Respondent's records, but even so, Respondent's testimony that nurse practitioner supervision is ''loose'' directly conflicts with California's detailed Standardized Procedure Guidelines. These guidelines, jointly promulgated by the Medical Board of California and the Board of Registered Nursing, require a written and signed agreement that includes specific components, including ''specify[ing] . . . which drugs or devices may be furnished or ordered, under what circumstances.'' Cal. Bus. & Prof. Code § 2836.1(c)(1).

Despite having issued over 2,500 unlawful controlled substance prescriptions, Respondent asserted that pain medications comprise a ''super teeny, teeny, tiny, percentage of the practice in terms of volume of patients over the year,'' and testified that over her entire career, she had only issued controlled substances to ''around 100 people.'' Tr. 382–83, 428–29, 465; RD, at 28, 29, 30. Respondent's attempts to minimize an extraordinarily high volume of controlled substance prescriptions is extremely concerning. *See, e.g., Medical Pharmacy,* 86 FR 72030, 72054 (2021) (''[T]he agency has long considered statements that are aimed at minimizing the egregiousness of . . . conduct to weigh against a finding of acceptance of full responsibility.''); RD, at 77.

Respondent also downplayed the discrepancies between K.D.'s repeated testimony that she only met Respondent once and her own self-serving and inconsistent testimony that they had met multiple times and conducted telehealth appointments. Tr. 189, 331, 334, 346, 348, 505; RD, at 74. Respondent again insisted that it was a misunderstanding, but also testified that she could not understand ''how [K.D.] wouldn't know that she has pain medication [written] in her name'' because she should have heard from the pharmacy that her prescriptions were ready to fill. Tr. 397–98, 448; RD, at 31, 32. Further, when testifying about the incident in which Respondent prescribed medication in K.D.'s name knowing that it would be diverted to T.D., Respondent emphasized that it was a ''very unique circumstance'', that T.D. was in a lot of pain and distress, that she believed she had permission from K.D., and that T.D. did not appear to be engaging in any drug-seeking behavior. Tr. 456–57, 458, 459–60; RD, at 34–35, 34 n.110. Respondent also testified that if prescriptions ''were being diverted, [she] was completely unaware.'' Tr. 458–59; RD, at 35.

As the ALJ recognized, ''Respondent frequently acknowledged and did not dispute the legal requirements governing her practice'' and ''acknowledged that her intentional diversion to T.D. was unlawful and wrong.'' Tr. 421–23, 427–28, 430–31, 433–34, 458, 461, 526–27; RD, at 77. However, Respondent also repeatedly attempted to shift blame for her misconduct and offered incredulous and inconsistent testimony downplaying and justifying her repeated instances of improper prescribing and intentional diversion. *See Owusu,* 87 FR at 3351 (''[I]t would strain all bounds of reasonable jurisprudence to find that Respondent has accepted responsibility for his actions, despite his trivialization of his misconduct . . . his implausible testimony, and his own view of himself as a victim.''); RD, at 77. Respondent's attempts to justify acts of intentional and knowing diversion are particularly concerning and demonstrate that the Agency cannot trust her with a registration. Accordingly, the Agency finds based on substantial record evidence that Respondent failed to unequivocally accept responsibility for her misconduct.[26]

Acceptance of responsibility and remedial measures are assessed in the context of the ''egregiousness of the violations and the [DEA's] interest in deterring similar misconduct by [the] Respondent in the future as well as on the part of others.'' *Daniel A. Glick, D.D.S.,* 80 FR 74800, 74810 (2015); *OakmontScript Limited Partnership,* 87 FR 21546, 21545 (2022). Here, the Agency agrees with the ALJ that the egregiousness of Respondent's misconduct favors revocation. RD, at 78–79. For a period of about five years, Respondent issued over 2,500 prescriptions for highly abused and diverted Schedule II, III, and IV controlled substance prescriptions without possessing proper state authority. Respondent blatantly flouted her obligations as a DEA registrant by prescribing Schedule II opioids to K.D., an individual she had never met, knowing that these prescriptions would be diverted by T.D. Although Respondent testified that T.D. never exhibited any drug-seeking behavior, she admitted that he ''practically begged'' her to issue the prescription, and K.D. wrote to Respondent through Instagram, ''[y]ou clearly know he has a problem.'' Respondent showed no remorse for her acts of intentional diversion to an individual with potential substance abuse problems and instead portrayed it as a ''very unique circumstance.''

Considerations of specific and general deterrence also militate in favor of revocation. RD, at 79–80. When testifying as to the allegations, Respondent rarely admitted fault and clearly did not appreciate the gravity of her misconduct or the potential harm to her patients and the community at large. Respondent's attempts to downplay and justify acts of intentional diversion demonstrate that she has not been deterred from violating the CSA in the

[26] Where a registrant has not accepted responsibility, it is not necessary to consider evidence of the registrant's remedial measures. *Ajay S. Ahuja, M.D.,* 84 FR 5479, 5498 n.33 (2019) (citing *Jones Total Health Care Pharmacy,* 81 FR at 79,202–03). As the ALJ observed, Respondent presented no evidence of remedial measures during the hearing, and only in her post hearing brief did she first indicate that she has since (1) ''engaged a new supervising physician, rather than Dr. Winter,'' (2) ''implemented updated standardized procedures,'' (3) ''transitioned to a new electronic health record system,'' (4) dismissed all of her controlled substance patients,'' and (5) ''completed continuing education on prescribing.'' ALJX 38, at 4, 15. The Agency agrees with the ALJ that even if Respondent had accepted responsibility for her actions, these statements related to remedial measures would receive little (if any) weight. They were provided after the hearing without any supporting testimony or documentary evidence, and without the opportunity for the Government to question Respondent regarding these actions. RD, at 18 n.169. Respondent's statements in her Exceptions that she has ''taken concrete steps to address issues raised, particularly concerning recordkeeping, prescribing practices, and supervision compliance,'' receive no weight for the same reasons. Accordingly, the Agency rejects Respondent's Exceptions.

future. Interests of general deterrence also support a sanction of revocation, as any sanction less than revocation would signal to the registrant community that intentional diversion and repeated acts of unlawful prescribing can be excused, even in cases where a registrant has failed to accept responsibility for such misconduct.

In sum, Respondent has not offered sufficient credible evidence on the record to rebut the Government's case for revocation and Respondent has not demonstrated that she can be entrusted with the responsibility of registration. Accordingly, the Agency will order that Respondent's registrations be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificates of Registration Nos. MM3336422 and MR5666106 issued to Joan Rubinger, N.P. 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 Joan Rubinger, N.P., to renew or modify these registrations, as well as any other pending application of Joan Rubinger, N.P., for additional registration in California and/or New York.[27] This Order is effective August 31, 2026.

Signing Authority

This document of the Drug Enforcement Administration was signed on July 24, 2026, by DEA Administrator Terrance C. Cole. 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. 2026–15328 Filed 7–29–26; 8:45 am]

BILLING CODE 4410–09–P

[27] The Agency may revoke Respondent's New York registration based on Respondent's egregious misconduct in California. *See, e.g., Roberto Zayas, M.D.,* 82 FR 21410, 21430 (2017) (revoking the respondent's Florida registration and denying his Texas renewal application based on misconduct in Texas). The Administrator's determination that Respondent may not be trusted with a registration disqualifies her for current DEA registration in all states. *See Suntree Pharmacy and Suntree Medical Equipment, LLC,* 85 FR 73753, 73755 (2020) (''If a practitioner holding multiple registrations cannot be entrusted with one, it would be difficult to justify entrusting the same practitioner with another in a separate location.'').

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On July 24, 2026, the Department of Justice lodged a proposed Consent Decree in the United States District Court for the Western District of Arkansas in the lawsuit entitled United States, et al. v. Domtar A.W., LLC, Case No. 4:26–cv–04059–JTS.

The United States filed this action with Arkansas Department of Energy& Environment, Division of Environmental Quality against the Defendant for violations of the Clean Air Act and the Arkansas Water and Air Pollution Control Act. The complaint alleges that the Defendant violated the New Source Performance Standards and the National Emission Standards for Hazardous Air Pollutants at its kraft paper/pulp mill in Ashdown, Arkansas. Under the proposed Consent Decree, the Defendant has agreed to pay a penalty of $1,500,000 and perform injunctive relief, including two mitigation projects to resolve the governments' claims.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to United States, et al. v. Domtar A.W., LLC, D.J. Ref. No. 90–5–2–1–12655. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* If you require assistance accessing the consent decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Jeffrey Sands,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2026–15402 Filed 7–29–26; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Attestation for Employers Seeking To Employ H–2B Nonimmigrant Workers Under Section 105 of Division G, Title I of the Further Consolidated Appropriations Act, 2024, Public Law 118–47, as Extended by Public Law 119–37

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before August 31, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This information collection request (ICR) supports the Temporary Final Rule (TFR), Exercise of Time-Limited Authority to Increase the Numerical Limitation for Fiscal Year 2026 for H–2B Temporary Nonagricultural Worker Program and Portability Flexibility for H–2B Workers Seeking To Change Employers, which is being promulgated