

4. encourage hunting and shooting sports safety, including through development of ranges on public lands;

5. recruit and retain new hunters and shooting sports enthusiasts whose participation helps support wildlife conservation and increased access and opportunities through the North American Model of Conservation;

6. increase public awareness of the importance of wildlife conservation and the social and economic benefits of hunting and the shooting sports; and

7. encourage coordination among the public; the hunting and shooting sports communities; wildlife conservation groups; and Federal, State, Tribal and Territorial governments to better utilize natural resources while providing for conservation.

(d) When requested by the Designated Federal Officer (DFO) in consultation with the Council Chairperson, performing a variety of assessments or reviews of policies, programs, and efforts through the Council's designated subcommittees or workgroups for consideration and approval of full Council.

The Council will meet at least two times per year. The Secretary will appoint members and alternates to the Council to serve up to a 3-year term. The Council will not exceed 18 primary representative members, up to 18 alternate representative members, and 4 ex officio members. Ex officio members will include: Secretary of the Interior or designated DOI representatives; Secretary of Agriculture or designated Department of Agriculture representative; and Executive Director, Association of Fish and Wildlife Agencies.

The Secretary will select remaining members from among, but not limited to, the organization/interests listed below. These members must be senior-level representatives of their organization and/or have the ability to represent their designated constituencies.

- State fish and wildlife management agencies;
- Wildlife and habitat conservation/management organizations;
- Shooting sports interests;
- Gamebird hunting organizations;
- Waterfowl hunting organizations;
- Big game hunting organizations;
- U.S. hunters actively engaged in domestic and/or international hunting conservation;
- The firearms or ammunition manufacturing industry;
- Archery interests;
- Wildlife-associated recreation interests;

• Tourism, outfitter, and/or guide businesses related to hunting and/or wildlife conservation;

- Tribal resource management organizations;
- Agriculture interests;
- Ranching interest; and
- Veterans service organizations.

Member Terms and Vacancies To Fill

Each representative member is appointed to serve up to a 3-year term. We are requesting nominations to fill vacancies to represent organizations/interests listed above.

Nomination Method and Information

Nominations should include a cover letter and resume providing an adequate description of the nominee's qualifications, including information that would enable DOI to make an informed decision regarding the ability of a nominee to meet the membership requirements of the Council and the national interest potentially represented by a nominee, and to permit DOI to contact a potential member. Individuals who submitted a cover letter and resume in response to the April 21, 2026, request for nominations do not need to resubmit for this request.

Members of the Council serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council or subcommittee business that the Designated Federal Officer approves may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

Authority: 5 U.S.C. Ch. 10.

Janine Velasco,

Acting Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 2026–20555 Filed 10–6–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Wellwise Pharmacy Inc.; Decision and Order

On September 25, 2025, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration (OSC/ISO) to Wellwise Pharmacy Inc. of Houston, Texas, and Conroe, Texas (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 11. The OSC/ISO

informed Registrant of the immediate suspension of its DEA registration, No. FW2318497, pursuant to 21 U.S.C. 824(d), finding that Registrant's continued registration constitutes “‘an imminent danger to the public health or safety.’” *Id.* at 1 (quoting 21 U.S.C. 824(d)). The OSC/ISO also proposed the revocation of Registrant's registration, alleging that Registrant's continued registration is inconsistent with the public interest. *Id.* at 1 (citing 21 U.S.C. 823(g)(1), 824(a)(4)).¹

Specifically, the OSC/ISO alleges that from at least January 2023 to March 2025, Registrant violated federal and Texas law by repeatedly filling prescriptions for controlled substances that presented multiple flags of diversion and/or abuse without addressing or resolving those red flags. RFAAX 1, at 4. The OSC/ISO alleged that these unresolved red flags of abuse and/or diversion included pattern prescribing; prescriptions for controlled substances commonly known to be abused; prescriptions for controlled substances at their highest strength and/or in large quantities; prescriptions for controlled substances for multiple patients who shared the same address; patients who traveled long distances to fill their controlled substance prescriptions; and patients who were paying high prices or in cash, instead of using insurance, for their controlled substance prescriptions. *Id.* at 5–9.

The OSC/ISO alleged that Registrant violated the following federal regulations: 21 CFR 1306.04 and 21 CFR 1306.06. RFAAX 1, at 2. The OSC/ISO also alleged that Registrant violated the following Texas state laws: Tex. Health & Safety Code § 481.074(a)(1); Tex. Health & Safety Code § 481.128(a)(1); 22 Tex. Admin. Code § 291.29(a)–(b), (f); 22 Tex. Admin. Code § 291.33(c)(2)(A)(i)–(ii), (iv); 22 Tex. Admin. Code § 291.33(c)(2)(C); 22 Tex. Admin. Code § 291.34(b)(1). *Id.* at 2–4.

On November 19, 2025, the Government submitted an RFAA to the Administrator requesting that the Agency issue a default final order revoking Registrant's registration. RFAA, at 1, 10. After carefully reviewing the entire record and conducting the analysis as set forth in detail below, the Agency grants the

¹ The Government's RFAA included a declaration by a DEA Diversion Investigator (DI), in which DI declared under penalty of perjury that on September 29, 2025, she and other DEA personnel traveled to Registrant's registered location and personally served a copy of the OSC/ISO on D.O., a representative of Registrant. RFAAX 2, at 1–2. Due to personal service of the OSC/ISO upon a representative of Registrant, the Agency finds that due process notice requirements have been satisfied.

Government's RFAA and revokes Registrant's registration. As a preliminary matter, this Decision addresses whether Registrant is in default and finds that it is. Thereafter, this Decision makes specific factual findings on the alleged violations as set forth in the OSC/ISO; specifically, the allegations that Registrant repeatedly filled controlled substance prescriptions without resolving red flags of abuse and/or diversion. Next, this Decision considers whether Registrant's registration is inconsistent with the public interest and finds that it is. Lastly, this Decision determines that the appropriate sanction is revocation of Registrant's registration.

I. Default Determination

Under 21 CFR 1301.43, a registrant entitled to a hearing who fails to file a timely hearing request "within 30 days after the date of receipt of the [OSC] . . . shall be deemed to have waived their right to a hearing and to be in default" unless "good cause" is established for the failure. 21 CFR 1301.43(a) & (c)(1). In the absence of a demonstration of good cause, a registrant who fails to timely file an answer also is "deemed to have waived their right to a hearing and to be in default." 21 CFR 1301.43(c)(2). Unless excused, a default is deemed to constitute "an admission of the factual allegations of the [OSC]." 21 CFR 1301.43(e).

Here, the OSC/ISO notified Registrant of its right to file a written request for hearing, and that if it failed to file such a request, it would be deemed to have waived its right to a hearing and be in default. RFAAX 1, at 10–11 (citing 21 CFR 1301.43). According to the Government's RFAA, Registrant failed to request a hearing. RFAA, at 1–2, 9. Thus, the Agency finds that Registrant is in default and therefore has admitted to the factual allegations in the OSC/ISO. 21 CFR 1301.43(e).

II. Public Interest Determination

A. Overview of Law

The Attorney General "may deny, suspend, or revoke [a] registration if . . . the [registrant's] registration would be 'inconsistent with the public interest.'" *Gonzales v. Oregon*, 546 U.S. 243, 251 (2006) (quoting 21 U.S.C. 824(a)(4)). The Attorney General's "discretion in exercising [the authority to register and deregister practitioners] is spelled out in very broad terms." *Id.* at 292 (Scalia, J., dissenting); see also *Neumann's Pharmacy, L.L.C. v. Drug Enf't Admin.*, 167 F.4th 320, 323 (5th Cir. 2026) ("DEA unquestionably has

broad authority to deregister pharmacies and substantial discretion to shape policy within statutory bounds."). In executing this broad mandate, DEA must continuously balance the CSA's public interest goals of curbing the "illegal . . . distribution[,] and possession[,] and improper use of controlled substances[, which has] a substantial and detrimental effect on the health and general welfare of the American people," while ensuring that the public has access to medications that "have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people." 21 U.S.C. 801(1), (2); see Joanna R. Lampe, Cong. Rsch. Serv., R45948, *The Controlled Substances Act (CSA): A Legal Overview for the 119th Congress* (2025), <https://www.congress.gov/crs-product/R45948>.

In the case of a "practitioner," which is defined in 21 U.S.C. 802(21) to include a "pharmacy," Congress directed the Attorney General to consider five factors in making the public interest determination. 21 U.S.C. 823(g)(1)(A)–(E).² Just as the phrase "inconsistent with the public interest" is broad, the five factors that Congress directed DEA to consider in determining the public interest are similarly broad, suggesting that Congress intended for DEA to have discretion and flexibility to interpret this language as necessary to implement its critical mission to protect the public from drug abuse and diversion. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394–95 (2024) (noting that "[i]n a case involving an agency . . . the statute's meaning may well be that the agency is authorized to exercise a degree of discretion," such as where the statute uses terms or phrases like "appropriate or reasonable" (internal citations omitted)). Indeed, courts have recognized the Agency's broad discretion to deny applications and deregister practitioners for a wide variety of conduct that the Agency has determined is inconsistent with the public interest. See, e.g., *Orusa v. Drug Enf't Admin.*, No. 22–3132, 2023 WL

3886403 (6th Cir. June 8, 2023) (physician issuing prescriptions outside the usual course of professional practice and beneath the standard of care); *St. Croix v. Drug Enf't Admin.*, No. 21–1116, 2022 WL 2092177 (D.C. Cir. June 10, 2022) (physician failing to maintain adequate records, prescribing controlled substances without a legitimate medical purpose, storing controlled substances at an unregistered location, failing to provide effective controls to guard against theft or diversion of these substances); *Suntree Pharmacy v. Drug Enf't Admin.*, No. 20–14626, 2022 WL 444357 (11th Cir. Feb. 14, 2022), *cert. denied*, 143 S. Ct. 305 (2022) (pharmacy filling prescriptions outside the usual course of practice).

The CSA's five public interest factors are considered in the disjunctive. *Gonzales v. Oregon*, 546 U.S. at 292–93 (Scalia, J., dissenting) ("It is well established that these factors are to be considered in the disjunctive," quoting *In re Arora*, 60 FR 4447, 4448 (1995)); *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); see *Morall v. Drug Enf't Admin.*, 412 F.3d 165, 181 (D.C. Cir. 2005) (describing the Agency's adjudicative process as "applying a multi-factor test through case-by-case adjudication," quoting *LeMoyné-Owen Coll. v. N.L.R.B.*, 357 F.3d 55, 61 (D.C. Cir. 2004)). 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*, 412 F.3d at 185 n.2 (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*

² 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).

Krishna-Iyer, M.D., 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, 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* 5 U.S.C. 706(2); 21 U.S.C. 877. If the Government meets its burden of establishing a *prima facie* case that Registrant’s registration is not in the public interest, then the burden shifts to Registrant to rebut the Government’s case. *Pharmacy Doctor Enters., Inc. v. Drug Enf’t Admin.*, 789 Fed. Appx. 724, 729 (11th Cir. 2019) (citing *Jones Total Health Care Pharmacy*, 881 F.3d at 830).

Registrant is registered in Texas, and the OSC/ISO has alleged violations of state laws in Texas. RFAAX 1, at 2–4. Accordingly, the Agency must evaluate the Government’s evidence under Texas law. *See Henry Emery, M.D.*, 90 FR 46927, 46929 (2025) (explaining the Agency analyzes public interest allegations according to the laws in the state where registrant is registered with DEA); *see also* 21 U.S.C. 903 (“No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together.”).

B. Applicable State Law

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.” RFAAX 1, at 2 (citing 21 CFR 1306.04(a)); *see Gonzales v. Oregon*, 546 U.S. at 274; *United States v. Hayes*, 595 F.2d 258, 260 (5th Cir. 1979), *rehearing den.*, 598 F.2d 620 (5th Cir. 1979), *cert. denied*, 444 U.S. 866 (1979). Although “[t]he responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner . . . a corresponding responsibility rests with the pharmacist who fills the prescription.” RFAAX 1, at 2 (citing 21 CFR 1306.04(a)). Pursuant to the CSA’s implementing regulations, only a pharmacist “acting in the usual

course of his professional practice” may fill a prescription for a controlled substance. RFAAX 1, at 2 (citing 21 CFR 1306.06).

As for state law, Texas regulations state that a Texas pharmacist “shall exercise sound professional judgment with respect to the accuracy and authenticity of any prescription drug order” they dispense and “shall make every reasonable effort to ensure that any prescription drug order . . . has been issued for a legitimate medical purpose by a practitioner in the course of medical practice.” 22 Tex. Admin. Code § 291.29(a)–(b); *see also* 22 Tex. Admin. Code § 291.34(b)(1); RFAAX 1, at 3.

Texas Administrative Code § 291.29(f) states that “[a] pharmacist shall make every reasonable effort to prevent inappropriate dispensing due to fraudulent, forged, invalid, or medically inappropriate prescriptions in violation of a pharmacist’s corresponding responsibility,” and provides a list of nineteen “patterns (*i.e.*, red flag factors) [that] are relevant to preventing the non-therapeutic dispensing of controlled substances.” 22 Tex. Admin. Code § 291.29(f); RFAAX 1, at 3–4. The statute further states that these red flags “shall be considered by evaluating the totality of the circumstances rather than any single factor.” *Id.* These “red flag factors” include:

“(1) the pharmacy dispenses a reasonably discernible pattern of substantially identical prescriptions for the same controlled substances, potentially paired with other drugs, for numerous persons, indicating a lack of individual drug therapy in prescriptions issued by the practitioner; . . .

(3) prescriptions by a prescriber presented to the pharmacy are routinely for controlled substances commonly known to be abused drugs, including opioids, benzodiazepines, muscle relaxants, psychostimulants, and/or cough syrups containing codeine, or any combination of these drugs; . . .

(5) prescriptions for controlled substances are commonly for the highest strength of the drug and/or for large quantities (*e.g.*, monthly supply), indicating a lack of individual drug therapy in prescriptions issued by the practitioner; . . .

(10) the Texas Prescription Monitoring Program indicates the person presenting the prescriptions is obtaining similar drugs from multiple practitioners, and/or that the person is being dispensed similar drugs at multiple pharmacies;

(11) multiple persons with the same address present substantially similar

controlled substance prescriptions from the same practitioner;

(12) persons consistently pay for controlled substance prescriptions with cash or cash equivalents more often than through insurance;

(13) persons presenting controlled substance prescriptions are doing so in such a manner that varies from the manner in which persons routinely seek pharmacy services (*e.g.*, persons arriving in the same vehicle with prescriptions from same practitioner; one person seeking to pick up prescriptions for multiple others; drugs referenced by street names[.]”

22 Tex. Admin. Code § 291.29(f); RFAAX 1, at 3–4.

Regarding the operational standards for a pharmacist filling a new prescription, the Texas Board of Pharmacy requires a pharmacist to: (i) review the patient’s medication record and, at a minimum, identify clinically significant information such as “reasonable dose and route of administration; . . . and [] proper utilization, including overutilization or underutilization,” (ii) “take appropriate steps to avoid or resolve [any] problem” identified, “including consultation with the prescribing practitioner”; and (iv) resolve any questions with the prescriber and document the resolution. 22 Tex. Admin. Code § 291.33(c)(2)(A)(i)–(ii), (iv); *see* 22 Tex. Admin. Code § 291.33(c)(2)(C) (outlining the information that such documentation must include); RFAAX 1, at 3.³

Texas regulations further state that “[a] pharmacist may not: (1) dispense . . . a controlled substance . . . except under a valid prescription and in the course of professional practice.” Tex. Health & Safety Code § 481.074(a)(1); *see* Tex. Health & Safety Code § 481.128(a)(1) (“A registrant or dispenser commits an offense if the registrant or dispenser knowingly . . . distributes, delivers, administers, or dispenses a controlled substance in violation of” Sections 481.061–481.080 of the Texas Health and Safety Code); RFAAX 1, at 2.

³ Such documentation must be “on the prescription or in the pharmacy’s data processing system associated with the prescription . . . and shall include . . . (i) [the] date the prescriber was consulted; (ii) [the] name of the person communicating the prescriber’s instructions; (iii) any applicable information pertaining to the consultation; and (iv) [the] initials or identification code of the pharmacist performing the consultation clearly recorded for the purpose of identifying the pharmacist who performed the consultation.” 22 Tex. Admin. Code § 291.33(c)(2)(C); RFAAX 1, at 3.

III. Findings of Fact

Allegation That Registrant Filled Prescriptions Without Addressing or Resolving Red Flags of Abuse and/or Diversion

In light of Registrant's default, the factual allegations in the OSC/ISO are deemed admitted. 21 CFR 1301.43(e). Accordingly, Registrant is deemed to have admitted that from January 2023 through March 2025 Registrant repeatedly filled prescriptions for controlled substances that contained multiple red flags of diversion and/or abuse without addressing or resolving those red flags, as detailed below. RFAAX 1, at 4.

A. Pattern Prescribing, Substances of Abuse, and Highest Strength/Large Quantities

Registrant admits that "pattern prescribing" occurs when practitioners prescribe "the same controlled substances in identical or substantially similar quantities, thus indicating a lack of individualized care." RFAAX 1, at 5. Registrant admits that DEA has recognized pattern prescribing to be a red flag consistent with abuse and/or diversion that needs to be addressed prior to dispensing. *Id.* (citing *The Med. Shoppe*, 79 FR 59504, 59512 (2014)). Registrant also admits that it is a red flag of abuse and/or diversion when prescriptions are for controlled substances that are commonly known to be abused, such as opioids and muscle relaxants, and for the highest strength and/or large quantities, such as a monthly supply. RFAAX 1, at 5.

Further, as discussed above, *see supra* Section II, Texas regulations have recognized pattern prescribing to be a red flag consistent with abuse and/or diversion that needs to be addressed prior to dispensing. 22 Tex. Admin. Code Ann. § 291.29(f)(1); RFAAX 1, at 3, 5. Texas regulations have also recognized that prescriptions for controlled substances commonly known to be abused (such as opioids and narcotics) and prescriptions for controlled substances prescribed at the highest strength and/or in large quantities (*e.g.*, a monthly supply) are red flags consistent with abuse and/or diversion that need to be addressed prior to dispensing. 22 Tex. Admin. Code §§ 291.29(f)(3), (f)(5); RFAAX 1, at 3–5.

Registrant admits that between January 19, 2023, and March 31, 2025, Registrant routinely filled prescriptions for oxycodone 30 mg (a Schedule II opioid), hydrocodone-acetaminophen 10–325 mg (a Schedule II opioid), and carisoprodol 350 mg (a Schedule IV

muscle relaxant). RFAAX 1, at 5. Registrant further admits that it repeatedly failed to identify and resolve pattern prescribing from the same practitioners. *Id.*

Specifically, Drs. C.I., M.L., and M.Q. prescribed 91-percent of all prescriptions that Registrant dispensed for oxycodone 30 mg (599 prescriptions out of 655 total). RFAAX 1, at 5. Drs. C.I. and M.L. prescribed 97-percent of all prescriptions that Registrant dispensed for hydrocodone 10–325 mg (381 prescriptions out of 391 total). *Id.* Drs. C.I. and M.L. prescribed 99-percent of all prescriptions that Registrant dispensed for carisoprodol 350 mg (380 prescriptions out of 383 total). *Id.*

Specific examples of Registrant's failure to identify and resolve red flags of pattern prescribing, substances of abuse, and highest strength and/or large quantities raised by prescriptions issued by Dr. C.I. include the following:

(a) Between December 26, 2024, and March 31, 2025, Registrant filled three prescriptions for individual B.P. for hydrocodone-acetaminophen 10–325 mg (100–108 tablets), and three prescriptions for carisoprodol 350 mg (90 tablets). RFAAX 1, at 5.

(b) Between September 28, 2023, and March 18, 2025, Registrant filled two prescriptions for individual B.S. for oxycodone 30 mg (110 tablets), three prescriptions for hydrocodone-acetaminophen 10–325 mg (100 tablets), and three prescriptions for carisoprodol 350 mg (90 tablets). RFAAX 1, at 5–6.

(c) Between January 31, 2024, and February 19, 2025, Registrant filled one prescription for individual S.H. for oxycodone 30 mg (109 tablets), two prescriptions for hydrocodone-acetaminophen 10–325 mg (100 tablets), and two prescriptions for carisoprodol 350 mg (90 tablets). RFAAX 1, at 6.

(d) Between January 16, 2025, and February 19, 2025, Registrant filled two prescriptions for individual C.B. for hydrocodone-acetaminophen 10–325 mg (110 tablets), and two prescriptions for carisoprodol 350 mg (90 tablets). RFAAX 1, at 6.

(e) Between October 4, 2023, and March 25, 2024, Registrant filled three prescriptions for individual K.B. for oxycodone 30 mg (110 tablets). RFAAX 1, at 6.

(f) Between August 22, 2023, and February 20, 2024, Registrant filled five prescriptions for individual T.D. for oxycodone 30 mg (105–110 tablets). RFAAX 1, at 6.

(g) Between August 10, 2023, and September 8, 2023, Registrant filled two prescriptions for individual Ke.B. for oxycodone 30 mg (100–105 tablets). RFAAX 1, at 6.

Registrant's records do not indicate that Registrant addressed or resolved the red flags discussed above. RFAAX 1, at 6. Accordingly, the Agency finds substantial record evidence that over 26-months Registrant repeatedly filled numerous prescriptions for controlled substances (at least 1,360 prescriptions) without first resolving the prescriptions' red flags of pattern prescribing, substances of abuse, and highest strength and/or large quantities. RFAAX 1, at 5–6.

B. Shared Addresses

Registrant admits that it is a red flag of abuse and/or diversion when multiple individuals presenting prescriptions for controlled substances share the same address. RFAAX 1, at 6. Registrant further admits that under DEA and Texas rules, multiple persons with the same address presenting the same or substantially similar controlled substance prescriptions from the same practitioner is pattern prescribing that must be resolved prior to filling the prescription. *Id.* (citing 22 Tex. Admin. Code § 291.29(f)(11); *Holiday CVS, L.L.C., d/b/a CVS/Pharmacy Nos. 219 and 5195*, 77 FR 62316, 62344 (2012)).

As discussed above, *see supra* Section II, Texas regulations identify the following as a red flag factor of abuse and/or diversion that must be addressed and resolved before filling a prescription for a controlled substance: "multiple persons with the same address present substantially similar controlled substance prescriptions from the same practitioner." 22 Tex. Admin. Code § 291.29(f)(11). DEA has recognized multiple individuals presenting the same or similar controlled substance prescriptions to be a red flag consistent with abuse and/or diversion that needs to be addressed prior to dispensing. *Holiday CVS*, 77 FR at 62344.

Specifically, between August 22, 2023, and March 18, 2025, Registrant filled seven prescriptions for oxycodone 30 mg, three prescriptions for hydrocodone-acetaminophen 10–325 mg, and three prescriptions for carisoprodol 350 mg for individuals B.S. and T.D. who shared the same address. RFAAX 1, at 6. These prescriptions were all issued by Dr. C.I. *Id.*

Between August 10, 2023, and February 19, 2025, Registrant filled three prescriptions for oxycodone 30 mg for individuals S.H. and Ke.B. RFAAX 1, at 6. Registrant also filled five prescriptions for hydrocodone-acetaminophen 10–325 mg and five prescriptions for carisoprodol 350 mg for individuals S.H. and C.B. *Id.* at 7. Individuals S.H., Ke.B., and C.B. shared

the same address. *Id.* These prescriptions were all issued by Dr. C.I. *Id.*

Registrant's records do not indicate that Registrant addressed or resolved the red flags discussed above. RFAAX 1, at 7. Accordingly, the Agency finds substantial record evidence that over approximately 19 months Registrant repeatedly filled numerous prescriptions for controlled substances, at least 26 in total, without first resolving the prescriptions' red flags of the recipients sharing the same address. *Id.*

C. Long Distances

Registrant admits that DEA has recognized that traveling long distances to obtain or fill controlled substance prescriptions is a red flag of abuse and/or diversion. RFAAX 1, at 7 (citing *E Main St. Pharmacy*, 75 FR 66149, 66164 (2010)).

Registrant is further deemed to have admitted that it repeatedly filled controlled substance prescriptions without identifying and resolving the red flag of patients traveling long distances to obtain or fill the prescriptions.⁴ RFAAX 1, at 7. Specifically, Registrant is deemed to have admitted that the following controlled substance prescriptions it filled raised the red flag of long distances:

(a) On six occasions between December 26, 2024, and March 31, 2025, Registrant (Conroe location)⁵ filled prescriptions for hydrocodone-acetaminophen 10–325 mg (100–108 tablets) or carisoprodol 350 mg (90 tablets) for individual B.P., whose home address was approximately 67 miles from Registrant. RFAAX 1, at 7.

(b) On six occasions between December 26, 2024, and March 18, 2025, Registrant (Conroe location) filled prescriptions for hydrocodone-acetaminophen 10–325 mg (100 tablets) or carisoprodol 350 mg (90 tablets) for individual B.S., whose home address is approximately 50 miles from Registrant. RFAAX 1, at 7. On two occasions between October 3, 2023, and April 23, 2024, Registrant (Richmond location)

filled prescriptions for oxycodone 30 mg (110 tablets) for individual B.S., whose home address was approximately 31 miles from Registrant. *Id.*

(c) On four occasions between January 15, 2025, and February 19, 2025, Registrant (Conroe location) filled prescriptions for hydrocodone-acetaminophen 10–325 mg (100 tablets) or carisoprodol 350 mg (90 tablets) for individual S.H., whose home address is approximately 52 miles from Registrant. RFAAX 1, at 7. On one occasion, on January 31, 2024, Registrant (Richmond location) filled a prescription for oxycodone 30 mg (109 tablets) for individual S.H., whose home address was approximately 29 miles from Registrant. *Id.*

(d) On four occasions between January 16, 2025, and February 19, 2025, Registrant (Conroe location) filled prescriptions for hydrocodone-acetaminophen 10–325 mg (110 tablets) or carisoprodol 350 mg (90 tablets) for individual C.B., whose home address was approximately 52 miles from Registrant. RFAAX 1, at 7–8.

(e) On three occasions between October 4, 2023, and March 25, 2024, Registrant (Richmond location) filled prescriptions for oxycodone 30 mg (110 tablets) for individual K.B., whose home address was approximately 303 miles from Registrant. RFAAX 1, at 8.

(f) On five occasions between August 22, 2023, and February 20, 2024, Registrant (Richmond location) filled prescriptions for oxycodone 30 mg (105–110 tablets) for individual T.D., whose home address was approximately 31 miles from Registrant. RFAAX 1, at 8.

(g) On two occasions between August 10, 2023, and September 8, 2023, Registrant (Richmond location) filled prescriptions for oxycodone 30 mg (100–105 tablets) for individual Ke.B., whose home address was approximately 29 miles from Registrant. RFAAX 1, at 8.

Registrant's records do not indicate that Registrant addressed or resolved the red flag of individuals traveling long distances to fill controlled substance prescriptions, as discussed above. RFAAX 1, at 7–8. Accordingly, the Agency finds substantial record evidence that Registrant repeatedly filled numerous prescriptions for controlled substances without first resolving the prescriptions' red flag of the recipients traveling long distances to fill them. *Id.*

D. Cash Payments and Inflated Prices

Registrant admits that individuals paying for controlled substance prescriptions using cash instead of

insurance is a red flag of abuse and/or diversion. RFAAX 1, at 8.

Further, as discussed above, *see supra* Section II, Texas regulations identify the following prescribing pattern as a red flag factor: “[P]ersons consistently pay for controlled substance prescriptions with cash or cash equivalents more often than through insurance.” 22 Tex. Admin. Code § 291.29(f)(12); RFAAX 1, at 8. DEA has also recognized that cash payments are a red flag. *See E Main St. Pharmacy*, 75 FR at 66158, 66164 (“[A]ny reasonable pharmacist knows that a patient that wants to pay cash for a large quantity of controlled substances is immediately suspect.”) (internal quotations omitted). Paying cash or a cash equivalent for controlled substance prescriptions is a red flag of abuse and/or diversion because it allows the individual to avoid the scrutiny associated with the use of insurance. *Id.*; *Jones Total Health Care Pharmacy, L.L.C., and SND Health Care, L.L.C.*, 81 FR 79188, 79191 (2016).

In addition, DEA has recognized that individuals paying inflated prices for controlled substance prescriptions is a red flag of abuse and/or diversion, especially when the price is higher than that of other pharmacies. *Gulf Med Pharmacy*, 86 FR 72694, 72696 (2021); *Jones Total Health Care Pharmacy*, 81 FR at 79191; RFAAX 1, at 8. Inflating prices for controlled substances is a red flag “because a legitimate patient, who could fill his or her prescription at any pharmacy, will switch pharmacies in order to pay the fair market price for that prescription,” as opposed to a “highly suspect patient [who] can only fill prescriptions at a suspicious pharmacy” and is willing to “pay whatever price that suspicious pharmacy sets.” *Gulf Med Pharmacy*, 86 FR at 72696.

Registrant admits that it repeatedly filled controlled substance prescriptions without identifying and resolving the red flags of cash payments and inflated prices. RFAAX 1, at 8–9. Specifically, Registrant is deemed to have admitted that the following controlled substance prescriptions it filled raised the red flags of cash payments and/or inflated prices:

(a) On six occasions between December 26, 2024, and March 31, 2025, individual B.P. paid Registrant between \$290.26–\$340.26 in cash for hydrocodone-acetaminophen 10–325 mg (100–108 tablets) prescriptions or \$90.67 in cash for carisoprodol 350 mg (90 tablets) prescriptions. RFAAX 1, at 8–9.

(b) On eight occasions between September 28, 2023, and March 18, 2025, individual B.S. paid Registrant between \$1,030.99–\$1,180.99 in cash for

⁴ Though long distances are not specifically mentioned in the Texas regulations as a red flag factor, the OSC/ISO notes that “DEA has found that traveling long distances to obtain or fill controlled substances prescriptions is a well-known red flag of abuse or diversion.” RFAAX 1, at 7 (citing *E Main St. Pharmacy*, 75 FR 66149, 66164 (2010) (finding that “the fact that the patients were driving so far to get their prescriptions filled ‘would be a major red flag to any pharmacist’ ”)).

⁵ Registrant's registered address was in Richmond, Texas, prior to September 2024, at which time it relocated to a registered address in Conroe, Texas. RFAAX 1, at 4.

oxycodone 30 mg prescriptions, between \$290.06–\$340.06 in cash for hydrocodone-acetaminophen 10–325 mg prescriptions, or \$90.67 in cash for carisoprodol 350 mg prescriptions. RFAAX 1, at 9.

(c) On five occasions between January 31, 2024, and February 19, 2025, individual S.H. paid Registrant \$1,030.90 in cash for oxycodone 30 mg prescriptions, \$340.06 in cash for hydrocodone-acetaminophen 10–325 mg prescriptions, or \$90.67 in cash for carisoprodol 350 mg prescriptions. RFAAX 1, at 9.

(d) On four occasions between January 16, 2025, and February 19, 2025, individual C.B. paid Registrant \$340.96 in cash for hydrocodone-acetaminophen 10–325 mg prescriptions or \$90.67 in cash for carisoprodol 350 mg prescriptions. RFAAX 1, at 9.

(e) On three occasions between October 4, 2023, and March 25, 2024, individual K.B. paid Registrant between \$1,030.99–\$1,180.99 in cash for oxycodone 30 mg prescriptions. RFAAX 1, at 9.

(f) On five occasions between August 22, 2023, and February 20, 2024, individual T.D. paid Registrant \$1,030.72 in cash for oxycodone 30 mg prescriptions. RFAAX 1, at 9.

(g) On three occasions between August 10, 2023, and September 8, 2023, individual Ke.B. paid Registrant \$1,030.30 in cash for oxycodone 30 mg prescriptions. RFAAX 1, at 9.

Registrant's records do not indicate that Registrant addressed or resolved the red flags of individuals paying in cash or cash equivalents, and/or inflated prices, for controlled substance prescriptions, as discussed above. RFAAX 1, at 8–9. Accordingly, the Agency finds substantial record evidence that Registrant repeatedly filled numerous prescriptions for controlled substances without first resolving the prescriptions' red flags of cash payments and/or inflated prices. *Id.*

E. Expert Review

DEA retained an independent pharmacy expert who reviewed Registrant's Prescription Monitoring Program data, the prescriptions identified above (*supra* Section III.A–D), prescription profiles, and patient notes, and concluded that Registrant filled the prescriptions identified above without resolving red flags of drug abuse and/or diversion. RFAAX 1, at 9. The independent pharmacy expert concluded that from January 2023 to at least March 2025, Registrant filled the above prescriptions in violation of federal law and binding minimal

standards that govern the practice of pharmacy in Texas. *Id.*

In consideration of all the above, the Agency finds substantial record evidence that Registrant repeatedly dispensed the above-referenced prescriptions without first resolving the above-referenced red flags, and that Registrant's dispensing of these prescriptions was outside the usual course of professional practice and lacked a legitimate medical purpose.

IV. Public Interest Determination

A. Registrant's Registration Is Inconsistent With the Public Interest

While the Agency has considered all the public interest factors of 21 U.S.C. 823(g)(1), the Government's evidence in support of its *prima facie* case primarily implicates Factors B and D. RFAA, at 9; RFAAX 1, at 5. Evidence is considered under Factor B when it reflects experience dispensing controlled substances and under Factor D when it reflects compliance or non-compliance with laws related to controlled substances. *Kareem Hubbard, M.D.*, 87 FR 21156, 21162 (2022). Although Factors B and D have some overlap, such that the Agency has frequently analyzed them together, Congress must have intended Factor B to encompass conduct that is not captured under Factor D. *See Kungys v. United States*, 485 U.S. 759, 778 (1988) (referencing the “cardinal rule of statutory interpretation that no provision should be construed to be entirely redundant”).

i. Factor B

As already discussed, the CSA gives the Attorney General authority to revoke a registration if he determines that the registrant “has committed such acts as would render his registration . . . inconsistent with the public interest as determined under [section 823].” 21 U.S.C. 824(a). One of the five factors that the Attorney General must consider in making this determination is the registrant's “experience in dispensing . . . controlled substances.” 21 U.S.C. 823(g)(1)(B) (Factor B). Neither the statute nor the implementing regulations defines the term “experience” or places any limitations on the type of conduct that may be considered as “experience” under Factor B.⁶

⁶ The only limitation discussed in the legislative history on DEA's authority under Factor B is that DEA should not “construe [this factor] in anyway to hinder registration of recent graduates of professional schools who may have no professional experience dispensing or conducting research with controlled substances.” H.R. REP. NO. 98–835, pt. 1, at 14 (1984).

Historically, the Agency's Factor B⁷ analysis considered “both the qualitative manner and quantitative volume of the [practitioner's] experience . . . as expressed through his patients and employees,” and concluded that the record must contain quantitative evidence regarding the practitioner's experience for the Agency to find that Factor B weighs against a practitioner. *E.g., Clair L. Pettinger*, 78 FR 61592, 61619 (2013). In 2015, the Agency abandoned this language, observing that the text of Factor B did not require DEA to consider the practitioner's “quantity” of prescribing. *See JM Pharmacy Group, Inc.*, 80 FR 28667, 28667–68 (2015); *see also Wesley Pope, M.D.*, 82 FR 14944, 14982 (2017). The Agency reviewed dictionary definitions of “experience,” including:

(1) The “direct observation of or participation in events as a basis for knowledge,” (2) “the fact or state of having been affected by or gained knowledge through direct observation or participation,” (3) “practical knowledge, skill, or practice derived from direct observation of or participation in events or in a particular activity,” and (4) “the length of such participation.”

80 FR at 28667 n.2 (citing *Webster's Collegiate Dictionary* 409 (10th ed. 1998); *The Random House Dictionary of the English Language* 681 (2d ed. 1987)).

The word “dispense” means “to deliver a controlled substance[] to an ultimate user or research subject by, or pursuant to the lawful order of a practitioner, including the prescribing or administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery.” 21 U.S.C. 802(10). This definition encompasses, among other things, practitioners who prescribe controlled substances and pharmacies who fill controlled substance prescriptions. *Id.* The term “controlled substance” simply means “a drug or other substance . . . included in schedule I, II, III, IV, or V” 21 U.S.C. 802(6). Thus, the phrase “experience in dispensing” means the direct participation in the act of delivering, prescribing, dispensing, or

⁷ Historically, the Agency referred to “Factor B” as “Factor Two.” 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 the public interest factors outlined at 21 U.S.C. 823(f)(1)–(5), which the Agency referred to as Factors One through Five, as 21 U.S.C. 823(g)(1)(A)–(E), which the Agency now refers to as Factors A through E. Accordingly, this Decision cites to the current designation, 21 U.S.C. 823(g)(1)(B), “Factor B.”

administering a controlled substance to an ultimate user.

The phrase “experience in dispensing” must be considered within the context of DEA’s broad mandate under 21 U.S.C. 824(a) to deregister practitioners who “ha[ve] committed such acts as would render [their] registration . . . inconsistent with the public interest.” 21 U.S.C. 824(a)(4). In other words, in determining what type of conduct is relevant under Factor B, DEA’s primary focus is to determine whether a registrant’s “experience in dispensing” is “inconsistent with the public interest” or whether a registrant’s dispensing constitutes “acts” that are inconsistent with the public interest. 21 U.S.C. 823(g)(1), 824(a)(4).

The word “inconsistent” is not defined in the CSA, but it is commonly defined as “lacking consistency: such as (a) not compatible with another fact or claim, [and] (b) containing incompatible elements.” *Inconsistent*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/inconsistent> (last visited on the date of signature). “Public interest” is a broad, discretionary term not explicitly defined in the CSA, but Congress identifies the primary goals in the CSA’s introductory section as ensuring access to controlled substances used for a “legitimate medical purpose” while protecting the public from the “illegal . . . distribution . . . and improper use of controlled substances[, which] have a substantial and detrimental effect on the health and general welfare of the American people.” 21 U.S.C. 801(1) & (2).

Considering these goals, DEA’s Factor B analysis primarily concerns whether a registrant’s “experience in dispensing” reflects illegal distribution or improper use of controlled substances that is inconsistent with the public interest. *Id.* In the context of a pharmacy, this would require the Agency to evaluate whether a pharmacy has dispensed controlled substances in a manner that is improper, illegal, or inconsistent with the public interest; for example, by ignoring indicators that a prescription lacked a legitimate medical purpose or would be improperly used, by filling a prescription in a manner that is inconsistent with state law or the state’s standards of practice, or by distributing controlled substances in a way that creates a risk of diversion.⁸

Of course, the Agency is not only concerned with acts of intentional

diversion,⁹ as DEA has explained that “[c]areless or negligent handling of controlled substances creates the opportunity for diversion and [can] justify the revocation of an existing registration . . .” *Samson K. Orusa, M.D.*, 87 FR 2986, 3018 (2022) (quoting *Paul J. Caragine, Jr.*, 63 FR 51592, 51602 (1998)); *Bradley H. Chesler, M.D.*, 87 FR 4917, 4917–01 (2022) (citing *Bienvenido Tan*, 76 FR 17673, 17689 (2011)); *Dewey C. MacKay, M.D.*, 75 FR 49956, 49974 n.35 (2010) (“Accordingly, under the public interest standard, DEA has authority to consider those prescribing practices of a physician, which, while not rising to the level of intentional or knowing misconduct, nonetheless create a substantial risk of diversion.”). Indeed, neither 21 U.S.C. 824(a) nor 21 U.S.C. 823(g) requires DEA to find that a registrant has intentionally diverted controlled substances. Ultimately, a registrant whose dispensing practices create an environment that encourages or is indifferent to the abuse or diversion of controlled substances is acting outside the public’s interest. As the opioid epidemic surges and other controlled substances, such as amphetamines, ketamine, and benzodiazepines, are increasingly abused, DEA must remain vigilant to protect the public against registrants who fail to employ the CSA’s safeguards to ensure the health and general wellness of the American public.

Registrants “may continue to introduce evidence as to . . . lawful . . . dispensing activities.”¹⁰ However, the Agency has found that “evidence that a practitioner has treated thousands of patients does not negate a *prima facie* showing that the practitioner has committed acts inconsistent with the public interest.”¹¹ *Krishna-Iyer*, 74 FR at

⁹ Only criminally unlawful conduct requires an act of intentional diversion such as proof that a physician “used ‘his authority to prescribe controlled substances . . . not for treatment of a patient, but for the purpose of assisting another in the maintenance of a drug habit’ or some other illegitimate purposes, such as his own ‘personal profit.’” *United States v. McIver*, 470 F.3d 550, 559 (4th Cir. 2006) (quoted in *Laurence T. McKinney*, 73 FR 43260, 43266 (2008)). Compare 21 U.S.C. 823 and 824, with 21 U.S.C. 841, 842, 843.

¹⁰ *Randall L. Wolff, M.D.*, 77 FR 5106, 5153 (2012) (finding that evidence of lawful prescribing is “entitled to some evidentiary weight only in cases where a practitioner credibly demonstrates an acceptance of responsibility and reform of past practices”); see also *Roberto Zayas, M.D.*, 82 FR 21410, 21422 n.27 (2017) (“[T]he Agency properly considers a [registrant’s] evidence of a lengthy history of compliance after the Government makes out its *prima facie* case, as determining what sanction is necessary to protect the public interest is the ultimate purpose of these provisions.”). In other words, this evidence may be relevant to the Agency’s sanctions analysis.

¹¹ “[E]very registrant can undoubtedly point to an extensive body of legitimate prescribing over the

463. Accordingly, the Agency has consistently rejected registrants’ arguments that acts of unlawful prescribing were mitigated by years of lawful prescribing. See, e.g., *Syed-Jawed Akhtar-Zaidi*, 80 FR 42961, 42967 (2015), pet. for rev. denied, 841 F.3d 707, 713 (6th Cir. 2016) (rejecting respondent’s argument that he was denied a “fair adjudication” because the Government seized 400 patient files but only proved the illegality of a handful of prescriptions issued during undercover visits, and finding that “the physician’s prescribing to thousands of other patients do not . . . render her prescribings to the undercover officers any less unlawful, or any less acts which are inconsistent with the public interest”) (internal quotations and citations omitted).¹²

Here, as found above, Registrant is deemed to have admitted, and the Agency finds, that Registrant repeatedly filled controlled substance prescriptions that contained multiple red flags of abuse and/or diversion without addressing or resolving those red flags. Registrant has further admitted that it “repeatedly dispensed prescriptions in violation of the minimum practice standards that govern pharmacy practice in Texas.” RFAAX 1, at 4. The Agency finds that Registrant’s failure to adhere to the minimum standards governing Texas pharmacy practice and its repeated issuance of prescriptions without addressing or resolving red flags reflects “experience in dispensing . . . controlled substances” that created an opportunity for the abuse or diversion of controlled substances and was outside the public interest. Registrant did not request a hearing and thus did not provide the Agency with any evidence related to its “experience in dispensing” that served the public’s interest. Accordingly, the Agency finds that Factor B weighs strongly against Registrant’s continued registration.¹³

course of [their] professional career.” *Krishna-Iyer*, 74 FR at 463. Accordingly, except where the Agency has found in its decision that a prescription was issued outside the public interest or in violation of law, the Agency assumes that all controlled substance prescriptions dispensed by a pharmacy are dispensed for a legitimate medical purpose and in accordance with relevant laws. See *Dewey C. Mackay, M.D.*, 75 FR at 49977.

¹² In an unreported opinion, the Sixth Circuit affirmed DEA’s conclusion that the respondent’s acts of unlawful prescribing outweighed his years of work experience. *Orusa v. Drug Enf’t Admin.*, 2023 WL 3886403 at *5 (“Orusa’s credentials and years of work experience, which the agency acknowledged, do nothing to disturb the agency’s detailed review of his prescribing history—the relevant “experience in dispensing . . . controlled substances.”).

¹³ While the Agency has determined that Registrant’s dispensing conduct is relevant to Factors B and D, to the extent that the found

⁸ Analysis of whether a prescription is illegally filled, distributed, or possessed also fit within Factor D, “Compliance with applicable State, Federal, or local laws relating to controlled substances.” 21 U.S.C. 823(g)(1)(D).

ii. Factor D

Under Factor D, the Agency considers a registrant's "[c]ompliance with applicable State, Federal, or local laws relating to controlled substances." 21 U.S.C. 823(g)(1)(D). Texas law establishes several factors that require resolution "to prevent[] the non-therapeutic dispensing of controlled substances"—in other words, diversion—a concern that goes to the heart of the CSA's public interest goal to ensure controlled substances stay in legitimate channels and outside of illicit channels. 22 Tex. Admin. Code § 291.29(f); 21 U.S.C. 801(1) & (2); *Gonzales v. Raich*, 545 U.S. at 12–13.

Here, an independent medical expert reviewed the evidence in this matter and concluded that Registrant's dispensing failed to prevent diversion insofar as Registrant failed to resolve concerns that Texas law establishes are indicative of diversion, and therefore, require resolution. RFAAX 1, at 9. To this extent, as the expert concluded, Registrant's repeated failure to resolve red flags—that are indicative of diversion per Texas law—violated "binding minimal standards that govern" the dispensing of controlled substances, standards which are designed to prevent diversion and that align with the CSA's public interest goals. *Id.* In this way, Registrant's dispensing failed to comply with applicable state law relating to controlled substances and the prevention of diversion. 21 U.S.C. 823(g)(1)(D).

Accordingly, as found above, Registrant is deemed to have admitted, and the Agency finds, that Registrant repeatedly dispensed controlled substances over a period of two years without resolving or documenting multiple red flags of drug abuse and/or diversion, as required by state law. As such, the Agency finds substantial record evidence that Registrant violated Texas law by failing to resolve red flags that are indicative of diversion. 22 Tex. Admin. Code § 291.29(f).

The Agency finds that after considering the public interest factors of 21 U.S.C. 823(g)(1), Factors B and D weigh in favor of revocation of Registrant's registration. Accordingly, the Government has satisfied its *prima facie* burden of showing that

Registrant's continued registration would be "inconsistent with the public interest." 21 U.S.C. 824(a)(4). The Agency also finds that there is insufficient mitigating evidence to rebut the Government's *prima facie* case. Thus, the only remaining issue is whether, in spite of the public interest determination, Registrant can be trusted with a registration.

V. Sanction

Where, as here, the Government has met its burden of showing that Registrant's continued registration is inconsistent with the public interest, the burden shifts to Registrant 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 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. *Jones Total Health Care Pharmacy*, 881 F.3d at 833; *Jeffrey Stein, M.D.*, 84 FR 46968, 46972 (2019). 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 accepts responsibility for those acts, understands the gravity and seriousness of the misconduct, and demonstrates that the registrant will not engage in future misconduct. *ALRA Labs., Inc. v. Drug Enf't Admin.*, 54 F.3d 450, 452 (7th Cir. 1995); *Jones Total Health Care Pharmacy*, 881 F.3d at 831–33. 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); *Jones Total Health Care Pharmacy*, 881 F.3d at 830–31. In addition, a registrant's candor during the investigation and hearing, if one is requested, is an important factor in determining acceptance of responsibility and the appropriate sanction. *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. *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. *Stein*, 84 FR at 46972–73.

Here, Registrant did not timely request a hearing and was deemed to be in default. 21 CFR 1301.43(c)(1), (e), (f)(1); RFAA, at 1–2, 9. To date, Registrant has not filed a motion with

the Office of the Administrator to excuse the default. 21 CFR 1301.43(c)(1). Registrant has thus failed to answer the allegations contained in the OSC/ISO and has not otherwise availed itself of the opportunity to refute the Government's case. As such, Registrant has made no representations as to its future compliance with the CSA nor made any demonstration that it can be entrusted with registration. Moreover, the evidence presented by the Government, and that is deemed admitted by way of Registrant's default, shows that Registrant committed egregious violations of the CSA by repeatedly filling controlled substance prescriptions over several years without addressing or resolving serious red flags that the controlled substances were being abused and/or diverted, further indicating that Registrant cannot be entrusted with a registration.

Accordingly, the Agency will order the revocation of Registrant's registration.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1) and 824(a)(4), I hereby revoke DEA Certificate of Registration, No. FW2318497, issued to Wellwise Pharmacy Inc. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1) and 824(a)(4), I hereby deny any pending applications of Wellwise Pharmacy Inc. to renew or modify this registration, as well as any other pending application of Wellwise Pharmacy Inc. for additional registration in Texas. This Order is effective November 6, 2026.

Signing Authority

This document of the Drug Enforcement Administration was signed on October 2, 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.

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conduct does not fall within these factors, it would nevertheless constitute "other conduct which may threaten the public health and safety." 21 U.S.C. 823(g)(1)(E). Registrant's repeated dispensing of controlled substances without addressing or resolving red flags may threaten the public health and safety by creating the risk that controlled substances may leave the CSA's closed distribution system and be abused or diverted.