

Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 5, 2023.

Lisa Barton,

Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Asim A. Hameedi, M.D.; Decision and Order

On May 19, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Asim A. Hameedi, M.D. (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) A (OSC), at 1, 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. BH6407919 at the registered address of 213-18 Union Turnpike, Bayside, New York 11364. *Id.* at 1-2. The OSC alleged that Registrant's registration should be revoked and any applications should be denied because Registrant has been "excluded from participation in all Federal health care programs pursuant to 42 U.S.C. 1320a-7(a)." *Id.* at 1 (citing 21 U.S.C. 824(a)(5)).

The Agency makes the following findings of fact based on the uncontroverted evidence submitted by the Government in its RFAA dated January 3, 2023.^{1 2}

Findings of Fact

By letter dated February 28, 2022, the Department of Health and Human Services (HHS), Office of Inspector General notified Registrant that he was "exclude[d] from participation in all Federal health care programs, as defined in section 1128B(f) of the Social Security Act (Act), for a minimum period of 11 years." RFAAX C, at 1. The HHS letter explained that Registrant's exclusion was "due to [his] felony conviction (as defined in section 1128(i) of the Act) in the United States District Court for the Southern District of New York, of a criminal offense related to fraud, theft, embezzlement, breach of

fiduciary responsibility, or other financial misconduct, in connection with the delivery of a health care item or service, or with respect to any act or omission in a health care program (other than Medicare and a State health care program) operated by, or financed in whole or in part, by any Federal, State or local government agency." *Id.* (citing 42 U.S.C. 1320a-7(a)(3)³). *Id.* Registrant's exclusion went into effect on March 20, 2022. RFAAX D.

Discussion

Pursuant to 21 U.S.C. 824(a)(5), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA) "upon a finding that the registrant . . . has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a-7(a) of Title 42." Here, the undisputed record evidence demonstrates that HHS mandatorily excluded Registrant from federal health care programs under 42 U.S.C. 1320a-7(a)(3). RFAAX C, at 1. Accordingly, the Agency will sustain the Government's allegation that Registrant has been excluded from participation in a program pursuant to section 1320a-7(a) of Title 42 and find that the Government has established that a ground exists upon which a registration could be revoked pursuant to 21 U.S.C. 824(a)(5).

Sanction

Where, as here, the Government has established grounds to revoke Registrant's registration, the burden shifts to the registrant to show why he can be entrusted with the responsibility carried by a registration. *Garret Howard Smith, M.D.*, 83 FR 18,882, 18,910 (2018). When a registrant has committed acts inconsistent with the public interest, he must both accept responsibility and demonstrate that he has undertaken corrective measures. *Holiday CVS, L.L.C., dba CVS Pharmacy Nos 219 and 5195*, 77 FR 62,316, 62,339 (2012) (internal quotations omitted). Trust is necessarily a fact-dependent determination based on individual circumstances; therefore, the Agency looks at factors such as the acceptance of responsibility, the credibility of that acceptance as it relates to the probability of repeat violations or behavior, the nature of the misconduct that forms the basis for sanction, and the Agency's interest in deterring similar

acts. *See, e.g., Robert Wayne Locklear, M.D.*, 86 FR 33,738, 33,746 (2021).

Here, Registrant did not request a hearing, submit a corrective action plan, respond to the OSC, or otherwise avail himself of the opportunity to refute the Government's case. As such, Registrant has made no representations as to his future compliance with the CSA nor demonstrated that he can be entrusted with registration. Where, in section 824(a)(5) cases, the registrant offers no mitigating evidence upon which the Administrator can analyze the facts, the Agency has consistently held that revocation is warranted. *Washington Bryan, M.D.*, 86 FR 71,924, 71,926 (2021).

The evidence presented by the Government clearly shows that Registrant has been mandatorily excluded from participation in federal health care programs. 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. 824(a), I hereby revoke DEA Certificate of Registration No. BH6407919 issued to Asim A. Hameedi, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1) (formerly 823(f)), I hereby deny any pending application to renew or modify this registration, as well as any other pending application of Asim A. Hameedi, M.D. for registration in New York. This Order is effective May 11, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on April 4, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

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¹ The RFAA was submitted on February 3, 2022.

² Based on a Declaration from a DEA Diversion Investigator, the Agency finds that the Government's service of the OSC on Registrant was adequate. RFAAX B, at 2. Further, based on the Government's assertions in its RFAA, the Agency finds that more than thirty days have passed since Registrant was served with the OSC and Registrant has neither requested a hearing nor submitted a written statement. RFAA, at 2; *see also* 21 CFR 1301.43.

³ 42 U.S.C. 1320a-7(a)(3) provides that exclusion is mandatory where, as here, an individual has a felony conviction related to health care fraud.