

physician for a physician assistant's actions. Moreover, this argument demonstrates a blatant attempt by Respondent to shift the blame to his supervising physician for his own failure to exercise basic due diligence in staying apprised of whether an agreement critical to the propriety of his work as a physician's assistant remained active. Respondent also attempted to shift the blame to the PALS system, stating in his Exceptions that "[i]t is unreasonable to expect [Respondent] not to consider the information in an official state licensing portal accurate or to expect it to be error-prone. The responsibility lies with the state to make sure the system is functioning properly." Exceptions, at 3. As previously noted, Respondent himself acknowledged that the PALS system can be inaccurate regarding the dates for current agreements, *see supra* I.2; Tr. 64, and once again, basic due diligence on the part of Respondent as well as proper and ongoing communication with his supervising physician would have ensured that Respondent would not have needed to rely solely on PALS to know whether their supervising agreement remained active.

Ultimately, the ALJ concluded, and the Agency agrees, that Respondent has not demonstrated unequivocal acceptance of responsibility for his actions. *Id.* (citing *Jones Total Health Care Pharmacy, L.L.C. & SND Health Care, L.L.C.*, 81 FR 79188, 79201–02 (2016)).¹⁷

In addition to acceptance of responsibility, the Agency considers both specific and general deterrence when determining an appropriate sanction. *Daniel A. Glick, D.D.S.*, 80 FR 74810. In this case, the Agency agrees with the ALJ that, regarding specific deterrence, "there is no reason to believe that the Respondent's behavior will not recur in the future, as he failed to accept responsibility and repeatedly attempted to justify his conduct." RD, at 29 (citing *Gilbert Y. Kim, D.D.S.*, 87 FR 21139, 21144–45 (2022)). Further, the Agency agrees with the ALJ that the interests of general deterrence also support revocation, as a lack of sanction in the current matter would send a message to the registrant community that "one can ignore the law and yet

¹⁷ When a registrant fails to make the threshold showing of acceptance of responsibility, the Agency need not address the registrant's remedial measures. *Ajay S. Ahuja, M.D.*, 84 FR 5479, 5498 n.33 (2019) (citing *Jones Total Health Care Pharmacy*, 81 FR 79202–03); *Daniel A. Glick, D.D.S.*, 80 FR 74800, 74801, 74,810 (2015). Even so, in the current matter, the ALJ noted, and the Agency has considered, that Respondent is presently covered by a written agreement with Dr. P. RD, at 28 n.44; Tr. 63–64; RX 1, at 3.

incur no consequences from having done so." *Id.* at 29–30 (citing *Joseph Gaudio, M.D.*, 74 FR 10083, 10095 (2009)). Moreover, the Agency agrees with the ALJ that Respondent's actions were egregious, as Respondent issued seventeen controlled substance prescriptions to multiple patients without an active written agreement in place with a supervising physician. *Id.* at 29.¹⁸

In sum, Respondent has not offered any credible evidence on the record to rebut the Government's case for revocation of his registration and Respondent has not demonstrated that he can be entrusted with the responsibility of registration. *Id.* at 30. Accordingly, the Agency will order that Respondent's registration be revoked.¹⁹

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. MM3329578 issued to Stephen McCarthy, P.A. 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 Stephen McCarthy, P.A., to renew or modify this registration, as well as any other pending application of

¹⁸ In his Exceptions, Respondent argues that "even if it is believed that [Respondent] is guilty of misconduct, that misconduct . . . was not of a severity that warrants the extreme measure of revocation." Exceptions, at 4. Respondent also claims, without citing to any specific Agency precedent, that "[s]imilar or more severe violations have resulted in lesser punishments, such as fines, reprimands, or temporary suspension" and "revocation would represent an inconsistency in the application of penalties." *Id.* The Agency possesses discretion to order a sanction lesser than revocation, however, the Agency finds that "exercising that discretion here would ill-serve the public interest" because "Respondent has not shown that [he] can be entrusted with the responsibility carried by [his] registration—having failed to accept responsibility for [his] conduct, [the Agency has] no assurance that Respondent would not repeat the conduct if [he was] to retain a registration." *The Pharmacy Place*, 86 FR 21008, 21016 (2021).

¹⁹ For his final Exception, Respondent argues that the ALJ's removal restrictions are unconstitutional under *Jarkesy v. SEC*, which held that the removal protections for ALJs of the Securities and Exchange Commission (SEC) are unconstitutional (while declining to decide whether that conclusion would entitle the plaintiff to vacatur of the challenged agency decision). *Jarkesy v. SEC*, 34 F.4th 446, 463–465, 463 n.17 (5th Cir. 2022), *aff'd on other grounds*, *SEC v. Jarkesy*, 603 U.S. ____ (2024), No. 22–859 (June 27, 2024). *Jarkesy* was decided on the understanding that "the SEC Commissioners may only be removed by the President for good cause," and thus there were "two layers of insulation" that "impede[d] the President's power to remove" the SEC's ALJs. *Id.* at 464–465. By contrast, there is no doubt that the President may remove the Attorney General at will. Accordingly, *Jarkesy* can and should be distinguished from the instant situation with respect to DEA's ALJs, and the Agency finds Respondent's Exception to be unpersuasive.

Stephen McCarthy, P.A., for additional registration in Pennsylvania. This Order is effective October 3, 2024.

Signing Authority

This document of the Drug Enforcement Administration was signed on August 19, 2024, 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.

[FR Doc. 2024–19730 Filed 8–30–24; 8:45 am]

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NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's Committee on Strategy hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

TIME AND DATE: Tuesday, September 3, 2024, from 2–3 p.m. eastern.

PLACE: This meeting will be via videoconference through the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda is: Chair's Opening Remarks; Presentation and discussion of NSF's FY 2026 Budget Submission to the Office of Management and Budget; Committee recommendation to NSB related to NSF's FY 2026 Budget Submission to the Office of Management and Budget.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, cblair@nsf.gov, 703/292–7000. Meeting information and updates may be found at www.nsf.gov/nsb.

Ann E. Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2024–19780 Filed 8–29–24; 11:15 am]

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