sanction less than revocation would send a message to the regulated community that compliance with the law is not a condition precedent to maintaining registration.

A balancing of the statutory public interest factors, coupled with consideration of Respondent Pharmacy's failure to accept responsibility, the absence of any evidence of remedial measures to guard against recurrence, and the Agency's interest in deterrence, supports the conclusion that Respondent Pharmacy should not continue to be entrusted with a registration. Accordingly, I shall order the sanctions the Government requested, as contained in the Order below.

V. 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 FM3950070 issued to Morning Star Pharmacy & Medical Supply 1. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Morning Star Pharmacy & Medical Supply 1 to renew or modify this registration. This order is effective September 18, 2020.

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–18083 Filed 8–18–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

David Mwebe, M.D.; Decision and Order

On August 17, 2018, a former Acting Administrator of the Drug Enforcement Administration (hereinafter, DEA or Government) issued an Order to Show Cause and Immediate Suspension of Registration to David Mwebe, M.D. (hereinafter, Registrant). Government's Request for Final Agency Action Exhibit (hereinafter, RFAAX) 2, at 1 (Order to Show Cause and Immediate Suspension Order (hereinafter, collectively OSC)). The OSC informed Registrant of the immediate suspension of his DEA Certificate of Registration BM9925388 pursuant to 21 U.S.C. 824(d), ''because [his] continued registration constitute[d] an imminent danger to the public health and safety.'' *Id.*

The substantive ground for the proceeding, as alleged in the OSC, is that Registrant's ''continued registration is inconsistent with the public interest, as that term is defined in 21 U.S.C. 823(f).'' *Id.* Specifically, the OSC alleges that Registrant issued at least 42 fraudulent prescriptions for controlled substances, either to himself using various aliases, or to other individuals, which Registrant filled himself in violation of 21 U.S.C. 843(a)(3), 21 CFR 1306.04(a), and Nebraska law. *Id.* at 2 (citing Neb. Rev. St. § 28–418(1)(c) (It is unlawful to ''acquire or obtain or to attempt to acquire or obtain possession of a controlled substance by theft, misrepresentation, fraud, forgery, deception, or subterfuge.'')).

In issuing the OSC, which immediately suspended the registration, the former Acting Administrator concluded that Registrant's ''continued registration is inconsistent with the public interest'' based on a preliminary finding that Registrant ''issued prescriptions for controlled substances that [Registrant] knew were without a legitimate medical purpose and were outside the course of professional practice'' and that were ''indicative of [Registrant's] general illegitimate practice of prescribing controlled substances in violation of State and Federal laws.'' *Id.* at 7. Citing 21 U.S.C. 824(d), he also made the preliminary finding that Registrant's ''continued registration during the pendency of the proceedings would constitute an imminent danger to the public health or safety because of the substantial likelihood that [Registrant] will continue to unlawfully prescribe controlled substances, thereby allowing the diversion of controlled substances unless [Registrant's] DEA COR is suspended.'' *Id.* The former Acting Administrator authorized the DEA Special Agents and Diversion Investigators serving the OSC on Registrant to place under seal or remove for safekeeping all controlled substances Registrant possessed pursuant to the immediately suspended registration. *Id.* (citing 21 U.S.C. 824(f) and 21 CFR 1301.36(f)). The former Acting Administrator also directed those DEA employees to take possession of Registrant's Certificate of Registration BM9925388 [1] and any unused prescription forms. *Id.*

According to the Declaration of a DEA Special Agent from the Philadelphia Field Division, the DEA Special Agent personally served the OSC on Registrant on August 17, 2018. RFAAX 3 (Declaration of Special Agent A). A DEA Diversion Investigator also stated that Registrant called her on August 17, 2018, regarding questions he had about the OSC he had received. RFAAX 4, at 2 (Declaration of DEA Diversion Investigator). Based on the Special Agent's Declaration, the Diversion Investigator's Declaration, and my review of the record, I find that the Government accomplished service of the OSC on Registrant on August 17, 2018.

On April 23, 2019, the Government forwarded a Request for Final Agency Action, along with the evidentiary record for this matter, to my office.[2] The OSC notified Registrant of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 7–8 (citing 21 CFR 1301.43(c)). I find that more than thirty days have now passed since the Government accomplished service of the OSC. I further find, based on the Government's written representations, that neither Registrant, nor anyone purporting to represent the Registrant, requested a hearing, or submitted a written statement while waiving Registrant's right to a hearing. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement. 21 CFR 1301.43(d). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

Having considered the record in its entirety, I find that the record establishes, by substantial evidence, that Registrant committed acts rendering his continued registration inconsistent with the public interest. I also find that Registrant has submitted no evidence that he accepts responsibility for his failures to meet the responsibilities of a registrant nor presented any evidence of mitigation or remedial measures. Accordingly, I conclude that the appropriate sanctions are (1) for Registrant's DEA registration to be revoked; and (2) for any pending application by Registrant to be denied.

Based on the representations of the Government in its RFAA, I make the following findings of fact.

[1] The OSC identified Registrant's DEA registration number as BW9925388. RFAAX, at 1. The Government has stated that this was a scrivener's error, and the correct number for Registrant's DEA registration, which the Government seeks to revoke, is BM9925388. RFAA, at 2 n.1.

[2] In the RFAA, the Government alleged that, in addition to the allegations in the OSC, Registrant lacks ''authority to handle controlled substances in the state of Nebraska, the state where he is registered with the DEA.'' RFAA at 1. I find it unnecessary to address this allegation as I have found that Registrant's registration should be revoked based on the allegations from the OSC.

I. Findings of Fact

A. Registrant's DEA Registration

Registrant is registered with the DEA as a practitioner in schedules II through V under DEA Certificate of Registration No. BM9925388, at 106 East Wayne Street, P.O. Box 8, Randolph, NE 68771. RFAAX 1 (Registrant's Certificate of Registration). This registration expires on January 31, 2021. *Id.* The registration was suspended pursuant to the Immediate Suspension Order dated August 17, 2018. OSC, at 7.

B. The Investigation of Registrant

DEA investigators began an investigation into Registrant in July 2017 after receiving information that Registrant was selling prescriptions for oxycodone and hydrocodone at a gentleman's club. RFAAX 5 (Declaration of Special Agent B), at 1.

On November 6, 2017, the Nebraska State Patrol (hereinafter, NSP) notified a DEA Special Agent (hereinafter, Special Agent B) that the Norfolk (Nebraska) Police Department (hereinafter, NPD) was summoned to a pharmacy in Norfolk, Nebraska (hereinafter, Pharmacy A) regarding a fraudulent prescription. *Id.* A man had attempted to fill a prescription for Adderall [3] using a driver's license bearing the name ''Joshua Masembe.'' *Id.* The NPD informed Special Agent B that they had run a check of the driver's license number for ''Joshua Masembe'' and discovered that it was associated with Registrant's name, David Mwebe; Registrant's date of birth; and Registrant's home address.[4] *Id.* at 1–2. NPD also informed Special Agent B that Pharmacy A's records showed that ''Joshua Masembe'' had also filled a prescription for Adderall in July 2017. *Id.* at 2. Special Agent B obtained from NSP copies of the two Adderall prescriptions issued to ''Joshua Masembe.'' *Id.,* App. A. The prescriptions were issued by Registrant. *Id.*

[3] Amphetamine mixture products, which are schedule II controlled substances pursuant to 21 CFR 1308.12(d)(1), are marketed under the brand name ''Adderall,'' and methylphenidate, a schedule II controlled substance pursuant to 21 CFR 1308.12(d)(4), is marketed under the brand name ''Ritalin.'' RFAA, at 3 (citing National Drug Code Directory, available at *https://www.accessdata.fda.gov/scripts/cder/ndc/index.cfm*).

[4] The Government included the license number, date of birth, and address listed on the driver's license for ''Joshua Masembe.'' I am not listing that information publicly in this Decision, because they match Registrant's actual license number, date of birth, and home address.

1. Interviews With Registrant

On May 30, 2018, Special Agent B, an investigator from the Nebraska Health Department, and an NSP investigator (hereinafter, the Investigators) interviewed Registrant at his DEA registered address. *Id.* at 2. The interview was recorded. *Id.* During the interview, Registrant admitted, *inter alia,* that he had written fraudulent prescriptions, RFAAX 4, App. A (transcript of recorded interview), at 72; taken Adderall that Registrant prescribed to ''Joshua Masembe'' and lied to DEA investigators about doing so, *id.* at 57, 66–67; filled antihypertension, Adderall, and Ritalin prescriptions that were written for ''Peter Senteza,'' *id.* at 55–56; and stolen prescriptions because he could not fill the prescriptions on a monthly basis by himself, *id.* at 68. Registrant told the investigators that he sent his driver's license to ''Peter Senteza'' to be altered, so he could pick up prescriptions written for Registrant's aliases. *Id.* at 57–59. Registrant stated that ''Peter Senteza'' altered Registrant's driver's license to create fake driver's licenses by swapping Registrant's name with the aliases' name. *Id.* Registrant told the investigators that ''Peter Senteza'' lived in Pittsburgh. *Id.* at 57.

Later in the interview, Registrant invited the Investigators to his residence. RFAAX 5, at 2. At his residence, Registrant gave the Investigators three altered Nebraska driver's licenses. *Id.* Two of the licenses bore the name ''Sam Kajubi.'' *Id.* One of these licenses was expired. *Id.* The third license bore the name ''Joshua Masembe.'' *Id.* at 3. All three licenses had Registrant's actual license number, date of birth, and home address. *Id.* at 2–3. They also contained Registrant's picture and identical physical descriptors. *Id.* at 3; *see* RFAAX 5, Appxs. C and D (copies of the three altered Nebraska driver's licenses).

Registrant also provided the Investigators with a box of empty prescription bottles. RFAAX 5, at 3. The box contained two bottles of alprazolam and two bottles of methylphenidate in the name of ''Peter Senteza,'' and three bottles of alprazolam, two bottles of methylphenidate, and one bottle of Adderall in the name of ''Sam Kajubi.'' *Id.;* RFAAX 5, Appxs. E and F (copies of photographs of the empty bottles). The labels on the bottles listed Registrant as the prescriber. RFAAX 5, Appxs. E and F.

On June 6, 2018, DEA Special Agent B and the Diversion Investigator met with Registrant at the Nebraska State Patrol Troop B Headquarters. RFAAX 4, at 2. According to the Diversion Investigator, Registrant stated that ''he used Ritalin and Adderall to help him work through long hours'' and ''used alprazolam to take 'power naps' during his long shifts.'' *Id.* The Diversion Investigator asked Registrant to voluntarily surrender his DEA Registration. *Id.* Registrant declined. *Id.*

2. Administrative Subpoenas

On June 15, 2018, DEA served administrative subpoenas on U-Save Pharmacy in Norfolk, Nebraska (hereinafter, U-Save Norfolk) and U-Save Pharmacy in Wayne, Nebraska (hereinafter, U-Save Wayne). RFAAX 5, at 3. The U-Save Norfolk administrative subpoena sought information on ''Peter Senteza,'' including a patient summary of all prescriptions prescribed to ''Peter Senteza.'' *Id.* at App. G. The U-Save Wayne administrative subpoena sought information on ''Sam Kajubi,'' including a patient summary of all prescriptions prescribed to ''Sam Kajubi.'' *Id.* at App. H.

U-Save Norfolk provided DEA with copies of sixteen prescriptions for controlled substances issued by Registrant to ''Peter Senteza'' and a patient profile for ''Peter Senteza'' in response to the administrative subpoena. *Id.* at Appxs. I and K. The U-Save Norfolk records show that Registrant issued, at a minimum, the following prescriptions to ''Peter Senteza:'' (1) Two prescriptions for 30 dosage units of Adderall 30 mg; (2) six prescriptions for 60 dosage units of methylphenidate 20 mg; and (3) eight prescriptions for 60 dosage units of alprazolam 1mg.[5] *Id* at App. I. The prescription labels U-Save Norfolk provided for the ''Peter Senteza'' prescriptions listed Registrant's home address in Osmond, Nebraska,[6] *id.* at 1, 2, 8, 15, 16, and U-Save Norfolk's patient profile for ''Peter Senteza'' also lists Registrant's home address in Osmond, Nebraska, *id.* at App. K.

U-Save Wayne provided DEA with copies of twenty-four prescriptions for controlled substances issued by Registrant to ''Sam Kajubi'' and a patient profile for ''Sam Kajubi'' in response to the administrative subpoena. *Id.* at Appxs. J and L. The U-Save Wayne records show that Registrant issued, at a minimum, the following twenty-four prescriptions for controlled substances to ''Sam Kajubi:'' (1) Three prescriptions for 60 dosage units of Adderall 30 mg; (2) nine

[5] Alprazolam is a schedule IV controlled substance pursuant to 21 CFR 1308.14(c)(2).

[6] Registrant did not write an address for ''Peter Senteza'' on the hard copies of the prescriptions. RFAAX 5, App. I.

prescriptions for 60 dosage units of methylphenidate 20 mg; (3) one prescription for 30 dosage units of methylphenidate 20 mg; and (4) eleven prescriptions for 60 dosage units of alprazolam 1 mg. *Id.* at App. J. U-Save Wayne's patient profile for ''Sam Kajubi'' lists Registrant's home address in Osmond, Nebraska and the same date of birth as Registrant.[7] *Id.* at App. L.

C. The Government's Allegations

The Government has alleged that on at least forty-two occasions, between July 10, 2014 and March 8, 2018, Registrant ''issued fraudulent prescriptions for controlled substances to either [him]self using various aliases, or to other individuals which [Registrant] filled.'' OSC, at 2. Specifically, the Government alleged that Registrant issued prescriptions for controlled substances that ''were not for a legitimate medical purpose and that were not issued in the usual course of professional practice because [Registrant] issued these prescriptions to [him]self under various aliases, including Sam Kajubi and Joshua Masembe; and impersonated Peter Senteza.'' *Id.*

As discussed above, the pharmacy records from U-Save Wayne, U-Save Norfolk, and Pharmacy A show that Registrant issued at least forty-two prescriptions for controlled substances to ''Sam Kajubi,'' ''Joshua Masembe,'' and ''Peter Senteza.'' The U-Save patient profiles for ''Sam Kajubi'' and ''Peter Senteza'' list Registrant's home address in Osmond, Nebraska, [8] and the person filling the controlled substance prescriptions for ''Joshua Masembe'' at Pharmacy A used an altered driver's license bearing Registrant's license number, home address, and date of birth.

Registrant admitted to the Investigators that he filled prescriptions that he wrote for controlled substances under the names ''Joshua Masembe'' and ''Peter Senteza.'' He told the Investigators that he sent his driver's license to ''Peter Senteza'' to be altered so that Registrant could fill prescriptions that he wrote for his aliases. Registrant provided three of these altered licenses in the names of ''Joshua Masembe'' and ''Sam Kajubi'' to the Investigators. Registrant also had empty prescription bottles for Adderall, alprazolam, and methylphenidate in the names of ''Sam Kajubi'' and ''Peter Senteza'' in his home. Registrant further admitted that he wrote fraudulent prescriptions, stole prescriptions because he could not fill the prescriptions on a monthly basis by himself, and used methylphenidate and Adderall to help him work and alprazolam to take ''power naps'' during his work shifts.

Based on the documentary evidence and Registrant's own admissions, I find that the Government has proven by substantial evidence that Registrant issued and filled controlled substance prescriptions under the aliases of ''Sam Kajubi'' and ''Joshua Masembe'' for personal use and that he issued and filled prescriptions using the name ''Peter Senteza'' for his personal use.

II. Discussion

Under the Controlled Substances Act (CSA), ''[a] registration . . . to . . . distribute[ ] or dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4). In the case of a ''practitioner,'' which is defined in 21 U.S.C. 802(21) to include a ''physician,'' Congress directed the Attorney General to consider the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The [registrant]'s experience in dispensing . . . controlled substances.

(3) The [registrant]'s conviction record under Federal or State laws relating to the . . . distribution[ ] or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(f). These factors are considered in the disjunctive. *Robert A. Leslie, M.D.,* 68 FR 15,227, 15,230 (2003).

According to Agency decisions, I ''may rely on any one or a combination of factors and may give each factor the weight [I] deem[ ] appropriate in determining whether'' to revoke a registration. *Id.; see also Jones Total Health Care Pharm., LLC* v. *Drug Enf't Admin.,* 881 F.3d 823, 830 (11th Cir. 2018) (citing *Akhtar-Zaidi* v. *Drug Enf't Admin.,* 841 F.3d 707, 711 (6th Cir. 2016); *MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808, 816 (10th Cir. 2011); *Volkman* v. *Drug Enf't Admin.,* 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d 477, 482 (6th Cir. 2005). Moreover, while I am required to consider each of the factors, I ''need not make explicit findings as to each one.'' *MacKay,* 664 F.3d at 816 (quoting *Volkman,* 567 F.3d at 222); *see also Hoxie,* 419 F.3d at 482. ''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, findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821.

The Government has the burden of proving that the requirements for revocation of a DEA registration in 21 U.S.C. 824(a) are satisfied. 21 CFR 1301.44(e). When the Government has met its *prima facie* case, the burden then shifts to the respondent to show that revoking registration would not be appropriate, given the totality of the facts and circumstances on the record. *Med. Shoppe-Jonesborough,* 73 FR 364, 387 (2008).

In this matter, while I have considered all of the Factors, the Government's evidence in support of its *prima facie* case is confined to Factors Two and Four.[9] I find 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).

[7] Registrant only wrote an address for ''Sam Kajubi'' on one of the twenty-four prescriptions U-Save Wayne produced to the Agency. Registrant wrote his own home address as ''Sam Kajubi's'' address on the prescription. RFAAX 5, at App. J, at 6.

[8] Registrant told the Investigators that ''Peter Senteza'' lived in Pittsburgh.

[9] In the RFAA, the Government alleged and provided evidence that the state of Nebraska has revoked Registrant's medical license. RFAA at 1, 9–10, 14–15; RFAAX 4, at Appxs. B and C. I am not considering this evidence under Factor One, because the Government did not notice the issue in the OSC, and I find it unnecessary to reach because Factors Two and Four demonstrate strongly that Registrant's continued registration would be inconsistent with the public interest.

As to Factor Three, there is no evidence in the record that Registrant has a ''conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.'' 21 U.S.C. 823(f)(3). However, as Agency cases have noted, there are a number of reasons why a person who has engaged in criminal misconduct may never have been convicted of an offense under this factor, let alone prosecuted for one. *Dewey C. MacKay, M.D.,* 75 FR 49,956, 49,973 (2010). Agency cases have therefore held that ''the absence of such a conviction is of considerably less consequence in the public interest inquiry'' and is therefore not dispositive. *Id.*

A. Factors Two and/or Four—The Registrant's Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

The Government has alleged that Registrant violated federal and state laws related to controlled substances when, ''on forty-two occasions, [Registrant] issued fraudulent prescriptions for controlled substances to himself by using various aliases, or to other individuals that he filled himself.'' RFAA, at 11–14.

Under the CSA, ''[i]t shall be unlawful for any person knowingly or intentionally to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.'' 21 U.S.C. 843(a)(3). Similarly, under Nebraska state law, it is unlawful ''to acquire or obtain or to attempt to acquire or obtain possession of a controlled substance by theft, misrepresentation, fraud, forgery, deception, or subterfuge.'' Neb. Rev. Stat. § 28–418(1)(c)(2016). I find that the Government has established based on uncontroverted evidence that by knowingly issuing controlled substance prescriptions to aliases and other individuals that he filled himself using fraudulent identification documents Registrant violated 21 U.S.C. 843(a)(3) and Neb. Rev. Stat. § 28–418(1)(c).

I also find that the record establishes by substantial evidence that Registrant violated 21 CFR 1306.04(a). Under § 1306.04, a lawful prescription for controlled substances 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). A practitioner must establish and maintain a legitimate doctor-patient relationship in order to act ''in the usual course of . . . professional practice'' and to issue a prescription for a ''legitimate medical purpose'' under the CSA. *Ralph J. Chambers,* 79 FR 4962, 4970 (2014) (citing *Paul H. Volkma*n, 73 FR 30,629, 30,642 (2008), pet. for rev. denied *Volkman* v. *Drug Enf't Admin.,* 567 F.3d 215, 223–24 (6th Cir. 2009)); *see also U.S.* v. *Moore,* 423 U.S. 122, 142–43 (1975) (noting that evidence established that the physician exceeded the bounds of professional practice, when ''he gave inadequate physical examinations or none at all,'' ''ignored the results of the tests he did make,'' and ''took no precautions against . . . misuse and diversion''). Agency decisions have demonstrated that in order for a physician to utilize his registration to dispense controlled substances, there must be a ''valid physician-patient relationship'' and that ''[l]egally, there is absolutely no difference between the sale of an illicit drug on the street and the illicit dispensing of a licit drug by means of a physician's prescription.'' *Mario Avello, M.D.* 70 FR 11,695, 11,697 (2005) (citing *Mark Wade, M.D.,* 69 FR 7018 (2004) and *Floyd A. Santner, M.D.,* 55 FR 37,581 (1990)). Registrant clearly issued the subject fraudulent prescriptions for controlled substances absent a valid physician-patient relationship and thereby violated 21 CFR 1306.04(a).

B. Registrant's Registration is Inconsistent With the Public Interest and Presented an Imminent Danger

The Agency has previously found that practitioners' registrations were inconsistent with the public interest in matters where the practitioners had issued fraudulent prescriptions for themselves. *See, e.g., David W. Bailey, M.D.,* 81 FR 6045, 6047 (2016) (revoking registration of physician who issued controlled prescriptions in his wife's name for personal use); *Ronald Phillips, D.O.,* 61 FR 15,304, 15,305 (1996) (revoking registration of practitioner who admitted to prescribing controlled substances in the names of family and friends, filling the prescriptions himself at pharmacies, and personally using a large portion of the controlled substances); *John V. Scalera,* 78 FR 12,092, 12,098 (2013) (denying application of practitioner who issued controlled substance prescriptions in a deceased relative's name for personal use). Accordingly, I find that the evidence in this matter establishes Registrant ''has committed such acts as would render his registration . . . inconsistent with the public interest.'' *See* 21 U.S.C. 824(a)(4).

For purposes of the imminent danger inquiry, my findings also lead to the conclusion that Registrant has ''fail[ed] . . . to maintain effective controls against diversion or otherwise comply with the obligations of a registrant'' under the CSA. 21 U.S.C. 824(d)(2). The substantial evidence that Registrant was issuing and filling fraudulent prescriptions for controlled substances for his personal use also establishes that there was ''a substantial likelihood [that an] . . . abuse of a controlled substance . . . [would] occur in the absence of the immediate suspension'' of Registrant's registration. *Id.*

III. Sanction

Where, as here, the Government has met its *prima facie* burden of showing that a Registrant's continued registration is inconsistent with the public interest, the burden shifts to the Registrant to show why he can be entrusted with a registration. *Garrett Howard Smith, M.D.,* 83 FR 18,882, 18,910 (2018) (collecting cases). Registrant did not present any evidence of remorse for his past misconduct or evidence of rehabilitative actions taken to correct his past unlawful behavior. Further, he provided no assurances that he would not engage in such conduct in the future. Absent such evidence and such assurances in this matter, I find that continued registration of Registrant is inconsistent with the public interest. Registrant's silence weighs against his continued registration. *Zvi H. Perper, M.D.,* 77 FR 64,131, 64,142 (2012 (citing *Med. Shoppe-Jonesborough,* 73 FR at 387); *see also Samuel S. Jackson,* 72 FR 23,848, 23,853 (2007). Accordingly, I find that the factors weigh in favor of sanction and I shall order the sanctions the Government requested, as contained in the Order below.

IV. Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f) and 824(a), I hereby revoke DEA Certificate of Registration BM9925388 issued to David Mwebe, M.D. I further hereby deny any pending application of David Mwebe, M.D., to renew or modify this registration. This Order is effective September 18, 2020.

Timothy J. Shea,

Acting Administrator.

[FR Doc. 2020–18082 Filed 8–18–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

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

On August 13, 2020, the Department of Justice lodged a proposed consent judgment with the United States District Court for the Eastern District of New York in the lawsuit entitled *United States of America* v. *Village of Rockville Centre, New York,* Case No. 20–CV–3663.

The United States filed this lawsuit to seek civil penalties and injunctive relief for violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.* (''CAA''). The alleged violations stem from the Village of Rockville Centre's (''Village'') failure to comply with federally-enforceable emissions limits for particulate matter (''PM'') and nitrogen oxide (''NO_X''). The Village operates a 33 megawatt municipal power plant (the ''Power Plant'') that provides electric power to its residents, in part, using diesel engines. The Village operates the Power