registrant's business activity is consistent with what is authorized under to 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: February 10, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–03358 Filed 2–17–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Sigma Aldrich International GMBH-Sigma Aldrich Co. LLC

ACTION: Notice of registration.

SUMMARY: Sigma Aldrich International GMBH-Sigma Aldrich Co. LLC applied to be registered as an importer of a basic class of controlled substance. The Drug Enforcement Administration (DEA) grants Sigma Aldrich International GMBH-Sigma Aldrich Co. LLC registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated October 13, 2015, and published in the **Federal Register** on October 21, 2015, 80 FR 63839, Sigma Aldrich International GMBH-Sigma Aldrich Co. LLC, 3500 Dekalb Street, Saint Louis, Missouri 63118 applied to be registered as an importer of a certain basic class of controlled substance. No comments or objections were submitted for this notice.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Sigma Aldrich International GMBH-Sigma Aldrich Co. LLC, to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of butylone (7541), a basic class of controlled substance listed in schedule I.

The company plans to import the above listed controlled substance for analytical research and testing of equipment. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial sale.

Dated: February 10, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–03353 Filed 2–17–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 15–1]

Arvinder Singh, M.D.; Decision and Order

On October 16, 2014, the Deputy Assistant Administrator, Office of Diversion Control, issued an Order to Show Cause to Arvinder Singh, M.D. (Respondent), of Clifton Park, New York. ALJ Ex. 1. The Show Cause Order proposed the denial of Respondent's application for a DEA Certificate of Registration as a practitioner on three grounds.

First, the Show Cause Order alleged that on August 4, 2003, Respondent, following a jury trial, was convicted on 16 counts of health care fraud in violation of 18 U.S.C. 1347, one count of conspiracy to distribute controlled substances in violation of 21 U.S.C. 846, and 24 counts of unlawful distribution of controlled substances in violations of 21 U.S.C. 841(a)(1) and 18 U.S.C. 2. *Id.* at 1–2. (citing 21 U.S.C. 824(a)(2)).

Second, the Show Cause Order alleged that Respondent's convictions for violating the Controlled Substances Act ''were based on a scheme in which [he] left pre-signed but otherwise blank prescriptions for [his] nursing staff to fill in and issue Schedule II controlled substances prescriptions to patients when neither [he] nor any other physician saw the patient at the time such prescriptions were issued.'' *Id.* at 2. The Show Cause Order alleged that Respondent's scheme also violated 21 CFR 1306.04(a) and 1306.05(a), and that this conduct constituted acts inconsistent with the public interest. *Id.* (citing 21 U.S.C. 824(a)(4) and 823(f)).

Third, the Show Cause Order alleged that on May 8, 2004, the U.S. Department of Health and Human Services (HHS) excluded Respondent from participation in federal health care programs for a period of 15 years based on his convictions for Health Care Fraud and for violating the Controlled Substances Act. *Id.* The Government further alleged that because ''the amount of the financial loss'' was in excess of $5,000; the time period of Respondent's illegal activity exceeded more than one year; and Respondent had been convicted of the CSA violations; HHS imposed a 15-year exclusion, which was three times the minimum exclusion period. *Id.* (citing 21 U.S.C. 824(a)(5)).

Following service of the Show Cause Order, Respondent requested a hearing on the allegations. The matter was placed on the docket of the Office of Administrative Law Judges and assigned to Chief Administrative Law Judge (hereinafter, CALJ) John J. Mulrooney, II. Following pre-hearing procedures, the CALJ conducted a hearing at which both parties introduced documentary evidence and called witnesses to testify. Thereafter, both parties submitted briefs containing their proposed findings of fact, conclusions of law, and arguments regarding the ultimate disposition of this matter.

On February 10, 2015, the CALJ issued his Recommended Decision. Therein, the CALJ found that the Government had established a *prima facie* case to deny Respondent's application for registration as a practitioner on multiple grounds.[1] R.D. at 37.

These included that Respondent had been convicted of twenty-four counts of

[1] Pursuant to 21 U.S.C. 823(f), ''[t]he Attorney General may deny an application for [a practitioner's] registration . . . if [she] determines that the issuance of such registration . . . would be inconsistent with the public interest.'' In making this determination, section 823(f) directs the Agency to consider the following factors:

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

(2) The applicant's experience in dispensing . . . controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, 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.

Id. § 823(f).

''These factors are . . . considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors[,] and may give each factor the weight [I] deem[ ] appropriate in determining whether a registration should be revoked. *Id.; see also MacKay* v. *DEA,* 664 F.3d 808, 816 (10th Cir. 2011); *Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009); *Hoxie* v. *DEA,* 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 (quoting *Hoxie,* 419 F.3d at 482)).

violating 21 U.S.C. 841(a)(1) in that he unlawfully caused and aided and abetted the illegal distribution of schedule II controlled substances by providing pre-signed but otherwise blank prescriptions to nurses who worked for him, who filled in the prescriptions with the name of the patient, the name of the drug, the quantity and dosing instructions, and provided the prescriptions to the patients, notwithstanding that the nurses were not legally authorized to dispense controlled substance prescriptions and Respondent did not see the patients. R.D. at 32–33. As discussed in the Recommended Decision, this conduct implicated three of the public interest factors and supports the conclusion that granting Respondent's application ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f); *see also* R.D. at 32–37; [2] 21 CFR 1306.05(a) (''All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.'').

In addition to the above, the evidence also shows that Respondent ''has been excluded . . . from participation in'' federal health care programs pursuant to the mandatory exclusion provisions of 42 U.S.C. 1320a–7(a). *See* 21 U.S.C. 824(a)(5) (''[a] registration pursuant to section 823 of this title to . . . dispense a controlled substance . . . may be suspended or revoked by the Attorney General 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'').[3] More specifically, the evidence shows that on May 28, 2004, the Office of Inspector General, Department of Health and Human Services, excluded Respondent ''from participat[ing] in the Medicare, Medicaid, and *all* Federal health care programs . . . for a minimum period of 15 years.'' GX 6. The exclusion was based on Respondent's convictions ''of criminal offense[s] related to'': (1) ''the delivery of an item or service under the Medicare program''; (2) ''fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care item or service or any act or omission in a health care program operated or financed by any Federal, State, or local government agency''; and (3) ''the unlawful manufacture, distribution, prescription or dispensing of a controlled substance.'' *Id.* (citing 42 U.S.C. 1320a–7(a)(1), (3), (4)). As the ALJ found, these convictions fall within the mandatory exclusion provisions of 42 U.S.C. 1320a–7(a).

Turning to whether Respondent had produced sufficient evidence to rebut the Government's *prima facie* case, the CALJ found that ''Respondent continues to dispute the nature of the criminal charges and their severity.'' R.D. 38. The CALJ further found that ''instead of accepting responsibility for the crimes for which he was convicted, he has emphasized isolated excerpts from orders and transcripts where he perceives he has been 'exonerated,' and/or occasions when DEA or the state licensing agency 'had no problems' with him.'' *Id.* (citations omitted). Continuing, the CALJ explained that ''[t]he Respondent has not accepted responsibility for his actions, persuasively expressed remorse for his conduct, or presented evidence that could reasonably support a finding that the Administrator should entrust him with a registration.'' *Id.*

The CALJ also found that Respondent's misconduct was egregious and ''militates persuasively in favor of denial of his application.'' *Id.* at 39. On the other hand, because Respondent's misconduct ''ended nearly fifteen years earlier'' and he ''has paid his debt to society,'' the CALJ found that granting his application would not ''adversely impact compliance expectations on the regulated community in a significant way,'' and thus, the Agency's interest in ''general deterrence should not, standing alone, constitute an insurmountable impediment to granting'' his application. *Id.*

However, the CALJ then found that ''[t]he issue of specific deterrence . . . is a dramatically different issue.'' *Id.* The CALJ explained that ''virtually every documentary, testimonial, and argumentative contribution made by the Respondent in these proceedings makes it overwhelmingly clear that he does not believe he was mistaken in any way.'' *Id.* The CALJ thus concluded that ''until . . . Respondent can convincingly show he accepts the authority of the law and those bodies charged with enforcing it and regulating his activities, granting him a DEA registration will gravely endanger the public.'' *Id.* at 40. The CALJ thus recommended that Respondent's application be denied. *Id.*

Respondent filed Exceptions to the Recommended Decision and the Government filed a response to Respondent's Exceptions. Thereafter, the record was forwarded to my Office for Final Agency Action.

Having considered the record in its entirety (including Respondent's Exceptions), I adopt the CALJ's findings of fact and conclusions of law to the extent they are discussed herein. Because I agree with the CALJ's ultimate findings that: (1) Multiple grounds exist to deny Respondent's application, (2) Respondent has failed to adequately acknowledge his misconduct, (3) Respondent's misconduct was egregious, and (4) the Agency's interest in specific deterrence supports the denial of his application, I will adopt the CALJ's recommendation that I deny Respondent's application. A discussion of Respondent's Exceptions follows.

Invoking *Gonzales* v. *Oregon,* 546 U.S. 243 (2006), Respondent's first contention is that ''the [A]gency has relied on factors which Congress has not intended it to consider.'' Exceptions, at 1. Fleshing out his argument, Respondent contends that during the hearing, ''[t]he Government has not shown a single case of [d]iversion.'' *Id.* at 2. He argues that the Government ''failed to even scratch the surface of the case where it is apparent that billing issues were criminalized through the use of [the] CSA despite no evidence of [d]iversion or [p]ublic [s]afety [i]ssues, by creating a [sic] interpretive rule, as in *Gonzales*'' and that ''Congress does not allow DEA to use its policing power to regulate Medical Practices or make its own rules to prosecute doctors.'' *Id.*

[2] *See* R.D. at 32–33 (discussing application of factor three—''the applicant's conviction record under Federal . . . laws relating to the . . . distribution[ ] or dispensing of controlled substances.''); *id.* at 33–36 (discussing application of factor two—''[t]he applicant's experience in dispensing . . . controlled substances''—and factor four—''[c]ompliance with applicable laws . . . related to controlled substances'').

[3] Notwithstanding that 21 U.S.C. 824(a)(5) addresses the Agency's authority to suspend or revoke a registration upon a finding that a registrant has been excluded from participation in federal health care programs under the mandatory exclusion provisions of 42 U.S.C. 1320a–7(a), DEA '' 'has consistently held that where a registration can be revoked under section 824, it can, *a fortiori,* be denied under section 823 since the law would not require an agency to indulge in the useless act of granting a license on one day only to withdraw it on the next.' '' *Kwan Bo Jin,* 77 FR 35021, 35021 n.2 (2012) (quoting *Serling Drug Co.* v. *Detroit Prescription Wholesaler, Inc.,* 40 FR 11918, 11919 (1975)). *See also John R. Amato,* 40 FR 22852 (1975) (Denying application where practitioner's state license had been revoked, holding that section 823(f) ''must logically give the Administrator the authority to deny a registration if the practitioner is not authorized by the State to dispense controlled substances. . . . To hold otherwise would mean that all applications would have to be granted only to be revoked the next day under 21 U.S.C. 824(a)(3). This [A]gency has consistently held that where a registration can be revoked under section 824, it can, *a fortiori,* be denied under section 823.'').

Gonzales, however, offers no comfort to Respondent because here, the Government's case is based on his convictions for aiding and abetting violations of a duly enacted statute—21 U.S.C. 841(a)(1).[4] Moreover, while most prosecutions under 21 U.S.C. 841(a)(1) are based on allegations of drug dealing, the statute encompasses any knowing or intentional distribution or dispensing of a controlled substance, ''[e]xcept as authorized by'' the Controlled Substances Act. 21 U.S.C. 841(a)(1). As the Court of Appeals explained in affirming his convictions:

> [n]urses are not authorized by law to write [Schedule II controlled substance] prescriptions, which must be written in triplicate by licensed physicians only.[5] [Respondent] developed a scheme that enabled nurses to see patients alone, to issue prescriptions for Schedule II [c]ontrolled [s]ubstances, and to bill for such services. He and the other physicians would pre-sign the triplicate forms and provide them to non-physician personnel to use during patient visits. These employees, although not trained or legally authorized to do so, filled in all the required prescription information—drug type, dosage, and quantity—and provided the prescriptions to the patients.

United States v. *Singh,* 390 F.3d 168, 176 (2d Cir. 2004). Indeed, the Court of Appeals noted that ''[d]ata extracted from Singh's office records revealed that the nurses issued prescriptions for at least 76,000 tablets of Schedule II Controlled Substances when Singh was not present in the Practice suite.'' *Id.*

Contrary to Respondent's contention, the Government was not required to show that any of the drugs obtained through these prescriptions were diverted. *See* Exceptions, at 2. As the Supreme Court recognized in *Gonzales,* one of the purposes of the CSA's prescription regulation (21 CFR 1306.04(a)) is to ''ensure[ ] patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse.'' 546 U.S. at 274. Respondent's nurses lacked the necessary training in medicine to properly supervise his patients and to determine whether additional prescriptions were warranted. Thus, by providing his nurses with pre-signed and otherwise blank prescriptions, Respondent's conduct created a substantial risk that the drugs would be diverted and abused. Moreover, as Respondent did not see the patients on those occasions when his nurses provided the prescriptions to the patients, he has no idea whether any of the drugs were abused or diverted. Yet, as the CALJ found, Respondent still does not understand this. R.D. 37–38.

Respondent also argues ''that billing issues were criminalized through the use of [the] CSA despite no evidence of Diversion or Public Safety Issues.'' Exceptions, at 2. However, in affirming his convictions for health care fraud, *see* 18 U.S.C. 1347, the Second Circuit reviewed the sufficiency of the evidence presented at trial and found that there were numerous instances in which Respondent billed for office visits as if he had seen the patients when, in fact, the patients were seen only by his nurses. *See Singh,* 390 F.3d at 187–89. Not only are Respondent's convictions *res judicata,* the crime of health care fraud does not require proof of either diversion or public safety issues. *See* 18 U.S.C. 1347(a).

Respondent further argues that the CALJ ignored substantial evidence in concluding that he failed to acknowledge his misconduct. Exceptions, at 3. Respondent argues that:

> I admitted right from the start in 1999 that I made the mistake of leaving Pre-Signed Prescriptions for legitimate patients of the practice with treatment plan spelled [out] in the chart, and not for Diversion. I never tried to trivialize it. . . . I admitted to the truth. The Agency wants me to admit Diversion (drug trafficking) when there was none. *Id.*

My review of the record finds no instance of the Agency attempting to elicit from Respondent an admission that he engaged in drug trafficking. What the record does show, however, is that Respondent still fails to acknowledge the risk of diversion created by his practice of providing pre-signed but otherwise blank prescriptions to his nurses and authorizing them to issue the prescriptions to the patients he did not see.[6]

Moreover, at the hearing, Respondent continued to dispute the extent of his misconduct in pre-signing prescriptions. Respondent testified that he engaged in this practice only after November 25, 1997, when another physician suddenly left his practice, and ''I left a few, you know, eight or 10 prescriptions pre[-]signed without any patient name.'' Tr. 250. The CALJ then asked Respondent: ''So your testimony is that there were—in the entire practice that you had there were only eight to 10 times that you pre[-]signed prescriptions?'' *Id.* Respondent answered: ''That's right, Your Honor.'' *Id.*

The CALJ again asked: ''And that's your testimony under oath?'' *Id.* at 250–51. Respondent answered: ''Yes, that's my testimony under oath. And all other prescriptions nurses handed were pre[-]filled and then handed to the patient. Even if I was not there they can give that because after that we learned our lesson. We cannot do this.'' *Id.* at 251.

After Respondent asserted that the difference between pre-signed and pre-filled prescriptions was that the former did not have a patient's name, the CALJ again asked: ''So . . . it's your recollection that there were only eight to 10 times that this occurred?'' *Id.*

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[4] In discussing Respondent's conviction record for the unlawful distribution of controlled substances under factor three, the Recommended Decision refers to 18 U.S.C. 841(a)(1) in several places. *See* R.D. 32. The correct provision is 21 U.S.C. 841(a)(1).

[5] The CSA leaves to state law the determination of the classes of health care providers that are authorized to prescribe controlled substances. *See* 21 U.S.C. 823(f) (''The Attorney General shall register [a] practitioner[ ] . . . to dispense . . . controlled substances . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.''); *id.* § 802(21) (''The term 'practitioner' means a physician, dentist, veterinarian . . . or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices . . . to dispense . . . a controlled substance in the course of professional practice. . . .''). *See also* 21 CFR 1306.03(a) (''A prescription for a controlled substance may be issued only by an individual practitioner who is . . . [a]uthorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession and . . . [e]ither registered or exempted from registration . . . .'').

[6] At one point, Respondent testified ''that there was no medical safety issue. And, yes, as you [the CALJ] now present it to me—and I apologize for that. This prescription could have been diverted, yes. There is no doubt about that.'' Tr. 269. However, on further questioning by the CALJ as to whether pre-signing the prescriptions was a safety issue, Respondent testified: ''No. Safety, I also—no, I didn't mean no safety issue with blank prescription, no, not at all.'' *Id.* Respondent then explained that ''[t]here was no public safety [issue] in the sense that there was no issue that patient could be harmed. I was thinking entirely differently.'' *Id.*

The CALJ then asked: ''[s]o there was no safety issue with some patient who you didn't know was going to get the prescription, with whatever drugs that were written on it that you didn't know, . . . there was no way in your view that any of those patients could be harmed?'' Tr. 269–70. Respondent answered: ''They were following my previous protocol.'' *Id.* at 270.

Later, the CALJ asked: ''[s]he [the Nurse] was exercising her judgment for patients that you didn't know for medications that you had no idea because you signed them?'' *Id.* at 278. Respondent answered: ''I knew the patients Your Honor. I knew the patients were coming in.'' *Id.* In response, the CALJ asked: ''Back to that again?'' *Id.* Respondent answered: ''No. I get back, yes, Your Honor. I apologize. I fully agree that, yes, it could be a great hazard. It could have been a great hazard.'' *Id.*

In response, the CALJ stated: ''I know those are your words, but they're not very convincing the way that you say it. I must say that your tenor, it's not very convincing that you think that.'' *Id.* I find no reason to reject the CALJ's assessment of Respondent's demeanor and the credibility of his testimony. *See Universal Camera,* 340 U.S. at 496.

Respondent answered: ''That's correct, Your Honor.'' *Id.* Following up, the CALJ asked: ''there were only eight to 10 total pre[-]signed prescriptions that you ever made in your life?'' *Id.* After Respondent ascertained that the CALJ meant that the prescriptions had been signed but otherwise ''left blank,'' Respondent answered ''[y]es.'' *Id.* 252.

The evidence further shows that on December 2, 1997, Investigators from the New York State Bureau of Controlled Substances went to his office at Albany Memorial Hospital and found six blank pre-signed prescriptions in the possession of his nurse. RX 12, at 2. At the hearing, Respondent testified that ''[a]fter the investigation, we stopped doing that.'' [7] Tr. 398. Yet later in his testimony, Respondent testified that this practice continued until some unspecified date in February 1998, when he hired another doctor for the practice, *id.* at 405–6, before returning to his original story and asserting that he had provided pre-signed prescriptions only on December 2, 1997 and had ''stopped that right away'' after the State's Investigator had come to his office. *Id.* at 411–12.

Respondent, however, was convicted of twenty-four counts of causing an act to be done and aiding and abetting the unlawful distribution of schedule II controlled substances based on his having provided pre-signed but otherwise blank prescriptions to his employees. *See* GX 2, at 21–24 (Superseding Indictment); GX 5, at 1 (District Court's Judgment). Moreover, Respondent was convicted of having committed this offense beginning as early as November 25, 1996, and was convicted of nineteen such offenses before November 25, 1997, the date on which his physician-employee quit the practice. *See* GX 2, at 21–24; GX 5, at 1.

As for his testimony that he stopped providing pre-signed prescriptions after becoming aware of the investigation, Respondent was convicted of having committed the offense on five occasions in January 1998, more than a month after he became aware of the investigation. *See* GX 2, at 23–24; GX 5, at 1. Moreover, the Court of Appeals found that on July 27, 1999—nearly 18 months after the visit by the State Investigator—federal agents executed search warrants at Respondent's offices in Albany and Port Chester, as well as his home, and found still more pre-signed prescriptions. *See* 390 F.3d at 178.

Likewise, with respect to his convictions for health care fraud, Respondent asserted that there were only 15 or 20 times when he billed an office visit as if he had seen the patient when the patient had only been seen by a nurse. *Id.* at 254. While Respondent admitted that ''the billing mistake was actually a big mistake'' and ''was stupid of me,'' *id.* at 255, here too, he attempted to minimize his misconduct asserting, in essence, that he was confused because ''in some states . . . if [the] doctor has set a plan, the nurse can do it as to this doctor's plan, [and the visit] can be billed under [the] doctor.'' *Id.* at 257. Unexplained is why, if Respondent had overbilled only 15 to 20 times, the District Court ordered him to pay more than $227,000 in restitution to approximately 250 payees.[8] *See* GX 5, at 7–13. The amount of the restitution he was ordered to pay likewise refutes his assertion that the overbilling was not motivated by money. *See* Tr. 262 (Respondent's testimony denying that the overbilling was financially motivated).

Finally, Respondent argues that the CALJ improperly ignored the State's recommendation; he also provides a laundry list of exhibits that he believes the CALJ ignored. As for the decision of the Peer Committee of the New York State Department of Education Committee in the Professions, the State has not made a recommendation to the Agency as to whether to grant a new registration to Respondent. While the State's decision to issue Respondent a new medical license establishes that he again holds authority under state law to dispense controlled substances and thereby satisfies the CSA's prerequisite for obtaining a practitioner's registration, this ''Agency has long held that 'the Controlled Substances Act requires that the Administrator . . . make an independent determination [from that made by state officials] as to whether the granting of controlled substance privileges would be in the public interest.' '' *David A. Ruben,* 78 FR 38363, 38379 n.35 (2013) (quoting *Mortimer Levin,* 57 FR 8680, 8681 (1992)).

Notably, under New York law, ''an applicant . . . does not have to admit past wrongdoing the applicant does not believe he committed . . . in order to be readmitted to his profession.'' GX 9F, at 12 (citation omitted). To be sure, in exercising its sovereign power to regulate the medical profession, the State of New York may follow this policy. *See Ruben,* 78FR at 38837 n.53. However, DEA is charged with protecting the public interest, *see* 21 U.S.C. 823(f), and based on the threat to public health and safety caused by intentional and knowing misconduct involving controlled substances, it is fully within DEA's authority to require an applicant for registration to acknowledge the full extent of his misconduct which has been proven on the record of the proceeding. *See MacKay* v. *DEA,* 664 F.3d 808, 821 (10th Cir. 2011) (discussing *Jayam Krishna-Iyer,* 74 FR 459, 462 (2009)). And while both *MacKay* and *Krishna-Iyer* involved practitioners who engaged in intentional diversion (*i.e.,* drug trafficking), the same consideration applies here, where, even though there is no evidence that the drugs the patients obtained using the pre-signed prescriptions were diverted, Respondent engaged in intentional or knowing misconduct which created a substantial risk of diversion.

Thus, while Respondent has put forward evidence of his remedial measures, his continued refusal to acknowledge the full scope of his criminal conduct precludes a finding that his registration would be consistent with the public interest. *See* R.D. at 37–38. Indeed, in his post-hearing brief, Respondent goes so far as to characterize his convictions for violating 21 U.S.C. 841(a)(1) as ''technical convictions.'' Resp. Post-Hrng. Br., at 12. They were not.

Moreover, as I have previously explained, the record contains no support for Respondent's assertion (Exceptions at 4) that he was required to admit to having issued prescriptions outside of the usual course of professional practice and for other than a legitimate medical purpose (*i.e.,* drug trafficking). *See* 21 CFR 1306.04(a). What he was required to acknowledge was the full scope of his criminal behavior and the risk of diversion it created, which, as established by his

[7] According to the Investigator's Report, Respondent's wife was present at his Albany office and ''called his attorney, who showed up at the office within minutes'' but ''would not allow the [Investigator] to make photocopies of those blanks on'' that date. RX 12, at 2. (The pre-signed prescriptions were, however, surrendered several days later. *Id.*) I therefore find that Respondent was aware of the investigation on December 2, 1997.

[8] Of further note, the Court of Appeals also rejected Respondent's challenge to his convictions for health care fraud, explaining that his ''contention that the billing codes and rules were sufficiently ambiguous to preclude a finding of fraudulent intent on his part is belied by the evidence. There are in fact no ambiguities in the billing requirements.'' 390 F.3d at 187. *See also id.* at 187–88 (''Nor could a rational jury find ambiguities sufficient to negate fraudulent intent . . . in the Medicare rules that allow billing for services performed by registered nurses when those services are 'incident to' a physician's services. The requirements for 'incident to' billing are that the physician must be present in the office suite and available to provide assistance. This requirement is plain enough, and there is ample proof that Singh did not comply with it.'').

convictions and the Second Circuit's opinion, went on for a far longer period and to a far greater extent than he was willing to acknowledge during this proceeding.

Accordingly, I find the CALJ's conclusion that Respondent has not accepted responsibility for his misconduct to be fully supported by the record and that he has not put forward sufficient evidence ''that could reasonably support a finding that'' he can be entrusted with a registration. R.D. at 38. Because I also agree with the CALJ's finding that Respondent's misconduct was egregious and that he still ''does not believe he was mistaken in any way,'' I also agree that these factors support the denial of his application. *See id.* at 39. I therefore adopt the CALJ's recommendation that I deny Respondent's application.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 28 CFR 0.100(b), I order that the application of Arvinder Singh, M.D., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This Order is effective immediately.

Dated: February 10, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–03361 Filed 2–17–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Funding Opportunity Announcement for: Summer Jobs and Beyond: Career Pathways for Youth (CPY)

AGENCY: Employment and Training Administration, Labor.

ACTION: Funding Opportunity Announcement (FOA).

Funding Opportunity Number: FOA–ETA–16–08.

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor, announces the availability of up to $20,000,000 in grant funds authorized by section 169(c) of the Workforce Innovation and Opportunity Act (WIOA), Public Law 113–128, Dislocated Worker Demonstration Projects, and the Consolidated Appropriation Act of 2016, Public Law 114–113 for the pilot grant program, Summer Jobs and Beyond: Career Pathways for Youth (CPY). ETA plans to award approximately 10–11 grants of approximately $2,000,000 each to Local Workforce Development Boards (LWDB). This program is designed to provide employment-related services to eligible youth who are new entrants to the workforce, including those with limited current or past work experience.

The program will provide youth with work experience opportunities, including summer and year-round part-time job opportunities for in-school youth and employment and work experience opportunities throughout the year for out-of-school youth, and exposure to career pathways in in-demand job sectors. The grants will require partnerships between LWDBs and local summer employment programs, employers, Local Education Agencies (LEAs), and re-engagement centers. Other community partners may provide services to eligible youth that assist in the development of work experience and entry into career pathways.

The complete FOA and any subsequent FOA amendments in connection with this solicitation are described in further detail on ETA's Web site at *http://www.doleta.gov/grants/* or *http://www.grants.gov.* The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications under this Announcement is March 25, 2016. We must receive applications no later than 4:00:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Janice Sheelor, Grants Management Specialist, Office of Grants Management, at (202) 693–3538. Applicants should email all technical questions to *sheelor.janice@dol.gov* and reference the Funding Opportunity Number listed in this notice.

The Grant Officer for this FOA is Latifa Jeter.

Signed February 9, 2016 in Washington, DC.

Eric D. Luetkenhaus,

Grant Officer/Division Chief, Employment and Training Administration.

[FR Doc. 2016–03336 Filed 2–17–16; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Representative Fee Request

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, ''Representative Fee Request,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 21, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201508-1240-002* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: An attorney or other representative may