



BILLING CODE: 4410-09-P

**DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION**

**SASSAN BASSIRI, D.D.S.
DECISION AND ORDER**

On February 7, 2017, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Sassan Bassiri, D.D.S. (Applicant), of King, North Carolina. The Show Cause Order proposed the denial of his application for a DEA Certificate of Registration on the ground that he has “been excluded from participation in a program pursuant to 42 U.S.C. 1320a-7(a).” Government Exhibit (GX) H, at 1 (citing 21 U.S.C. 824(a)(5)).

With respect to the Agency’s jurisdiction, the Show Cause Order alleged that on February 9, 2016, Applicant “applied for a DEA [Certificate of Registration] as a practitioner in Schedules II-V” at the registered address of 226 Kirby Road, King, North Carolina. *Id.* at 2.

Regarding the substantive ground for the proceeding, the Show Cause Order alleged that on February 28, 2014, the Office of the Inspector General for the U.S. Department of Health and Human Services (HHS) notified Applicant that, effective March 20, 2014, he would be excluded from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs for five years because he was convicted of a program-related offense pursuant to § 1128(i) of the Social Security Act (SSA). *Id.* (citing 42 U.S.C. 1320a-7(a) and (i)). As a result, the Order stated that Applicant’s exclusion from participation in federal health care programs “constitutes grounds to deny [his] application under 21 U.S.C. 824(a)(5).” *Id.* at 3.

The Show Cause Order notified Applicant of (1) his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, (2) the procedure for electing

either option, and (3) the consequence for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Show Cause Order also notified Applicant of his right to submit a corrective action plan. *Id.* at 3-4 (citing 21 U.S.C. 824(c)(2)(C)).

From February 7, 2017 through February 18, 2017, the Government states that it attempted to serve the Show Cause Order on Applicant by U.S. Mail, electronic mail, Federal Express, U.S. Postal Service Certified Mail, and in-person. Government Request for Final Agency Action (Request or RFFA), at 4. As evidenced by the signed return receipt card, on February 18, 2017, the Government accomplished service. GX I.

On April 17, 2017, the Government forwarded its Request for Final Agency Action and evidentiary record to my Office. In its Request, the Government represents that Applicant neither requested a hearing nor “filed any written statement in lieu of a hearing or requested a Corrective Action Plan (CAP).” RFFA, at 4. Based on the Government’s representation and the record, I find that more than 30 days have passed since the Order to Show Cause was served on Applicant, and he has neither requested a hearing nor submitted a written statement in lieu of a hearing. *Id.* (citing 21 CFR 1301.43(d)). Accordingly, I find that Applicant has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government. I make the following findings.

FINDINGS OF FACT

Applicant is a doctor of dental surgery. Applicant was previously registered with the DEA as a practitioner in schedules II-V pursuant to Certificate of Registration BB8537738. However, he surrendered this Registration to DEA on May 10, 2011. GX A. On February 9, 2016, Applicant applied for a DEA Certificate of Registration as a practitioner in schedules II-V with a registered address at 226 Kirby Road, King, North Carolina. GX G.

On March 17, 2011, the North Carolina State Board of Dental Examiners found that Applicant had intentionally defrauded the North Carolina Division of Medical Assistance (Medicaid), which led to the revocation of his dental license starting in April 2011. GX F, at 2-3. On January 2, 2013, Applicant entered a guilty plea in the United States District Court for the Middle District of North Carolina to three charges of health care fraud in connection with a scheme to defraud the North Carolina State Medicaid program, in violation of 18 U.S.C. 1347. GX C. On May 10, 2013, a federal court entered judgment and sentenced Applicant to a term of imprisonment of five months on each count, but provided that the sentences would “run concurrently with each other,” followed by five months of home confinement. GX D, at 2, 4. The sentencing judge also ordered Applicant to pay a \$10,000 statutory fine and \$68,795.65 in restitution to the Medicaid program, and further ordered that Applicant be on supervised release for two years after the conclusion of his sentence. *Id.* at 3, 5.

The record also includes a February 28, 2014 letter from HHS notifying Applicant that he was “being excluded from participation in any capacity in the Medicare, Medicaid, and **all** Federal health care programs as defined in section 1128B(f)” of the SSA “for the minimum statutory period of five years.” GX E, at 1 (emphasis in original). The letter explained that Applicant was being excluded “due to [his] conviction . . . in the United States District Court for the Middle District of North Carolina, of a criminal offense related to the delivery of an item or service under the Medicare or a State health care program.” *Id.* The letter states that “[t]his action is being taken under section 1128(a)(1) of the [SSA]¹ and is effective” on March 20, 2014. *Id.* (citing 42 U.S.C. 1320a-7(a)).²

¹ Section 1128(a)(1) of the SSA is codified at 42 U.S.C. 1320a-7(a)(1).

² The letter also notes that “[w]e are aware that you are currently excluded from participation in the Medicare and State health care programs under section 1128(b)(4)” of the SSA based on a February 29, 2012 letter from HHS to

On February 3, 2016, the North Carolina State Board of Dental Examiners issued an order placing Applicant under a restricted license allowing him to resume practicing dentistry subject to certain limitations, including that he practice for one year “under the supervision of a [North Carolina licensed] dentist” and only practice (with the Board’s prior approval) at an institution like a hospital or sanatorium, a non-profit health care facility servicing low-income patients, or for a State of North Carolina government agency or entity. GX F, at 7-8. After one year, the Board also stated that Applicant may either renew his restricted license or seek an unrestricted dental license. *Id.* at 9.

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 Title 21, “upon a finding that the registrant . . . has been excluded . . . from participation in a program pursuant to section 1320a-7(a) of Title 42.” “It is well established that the various grounds for revocation or suspension of an existing registration that Congress enumerated in [§ 824(a)] are also properly considered in deciding whether to grant or deny an application under [§ 823].” *Arthur H. Bell*, 80 FR 50035, 50037 (2015) (citing *The Lawsons, Inc.*, 72 FR 74334, 74337 (2007); *Anthony D. Funches*, 64 FR 14267, 14268 (1999); *Alan R. Schankman*, 63 FR 45260 (1998); *Kuen H. Chen*, 58 FR 65401, 65402 (1993)); *see also Serling Drug Co. and Detroit Prescription Wholesaler, Inc.*, 40 FR 11918 (1975) (holding that the CSA does not require the Agency to indulge in the useless act of granting a license on one day only to withdraw it on the next). Thus, the allegation that Applicant has been excluded from participation in a program pursuant to 42 U.S.C. 1320a-7(a) is properly considered in this proceeding. *See Bell*, 80 FR at 50037 (finding that the allegation that

Applicant because North Carolina revoked his dental license starting in April 2011. *Id.*; GX B, at 1 (citing 42 U.S.C. 1320a-7(b)); GX F, at 3. HHS specified that the exclusion set forth in its 2014 letter was “in addition to that [2012 exclusion] action and will run concurrently with it.” GX E, at 1.

Respondent had materially falsified his application pursuant to § 824(a)(1) was properly considered in application denial proceeding).

Under § 1320a-7(a)(1), HHS is required to exclude from participation in any Federal health care program any individual who has been convicted of a criminal offense “related to the delivery of an item or service under [42 U.S.C. 1395 *et seq.*] or under any State health care program.” Based on the 2014 letter, I find that the evidence shows that HHS excluded Applicant from participation in any federal health care program based on his federal convictions for health care fraud. Applicant has thus been excluded pursuant to the mandatory exclusion provisions of 42 U.S.C. 1320a-7(a). Accordingly, I will order that his application be denied.

ORDER

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

Date: July 2, 2017

Chuck Rosenberg
Acting Administrator

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