the public safety, the Acting Deputy Administrator finds this factor relevant to Gazaly's proposal to distribute listed chemical products primarily to convenience stores and gas stations. While there are no specific prohibitions under the Controlled Substance Act regarding the sale of listed chemical products to these entities, DEA has nevertheless found that business establishments such as gas stations and convenience stores constitute sources for the diversion of listed chemical products. *See, e.g., Sinbad Distributing,* 67 FR 10232, 10233 (2002); *K.V.M. Enterprises,* 67 FR 70968 (2002) (denial of application based in part upon information developed by DEA that the applicant proposed to sell listed chemicals to gas stations, and the fact that these establishments in turn have sold listed chemical products to individuals engaged in the illicit manufacture of methamphetamine); *Xtreme Enterprises, Inc., supra.*

Factor five is also relevant to Gazaly's proposal to distribute to potential customers under criminal investigation, or to customers associated with firms that were the subject of criminal investigations. The conduct of a potential customer has been deemed a relevant consideration under factor five. *Shani Distributors,* 68 FR 62324, 62326 (2003).

As noted above, there is no evidence in the investigative file that Gazaly ever sought to modify its pending application with regard to listed chemical products its seeks to distribute. Among the listed chemical products that the firm seeks to distribute is phenylpropanolamine. In light of this development, the Acting Deputy Administrator also finds factor five relevant to Gazaly's request to distribute phenylpropanolamine, and the apparent lack of safety associated with the use that product. DEA has previously determined that an applicant's request to distribute phenylpropanolamine constitutes a ground under factor five for denial of an application for registration. *Shani Distributors, supra.* Based on the foregoing, the Acting Deputy Administrator concludes that granting the pending application of Gazaly would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certificate of Registration, previously submitted by Gazaly Trading be, and it hereby is, denied. This order is effective May 26, 2004.

Dated: March 29, 2004.

**Michele M. Leonhart,**

*Acting Deputy Administrator.*

[FR Doc. 04–9334 Filed 4–23–04; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 03–41]**

### Alton E. Ingram, Jr., M.D.; Revocation of Registration

On June 25, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Alton E. Ingram, Jr., M.D. (Respondent) of Pensacola, Florida, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BI3210642, as a practitioner, pursuant to 21 U.S.C. 824(a)(3) and deny any pending applications for renewal of that registration pursuant to 21 U.S.C. 832(f). As a basis for revocation, the Order to Show Cause alleged that Respondent's license to practice medicine in Florida had been indefinitely suspended and accordingly, he was not authorized to handle controlled substances in Florida, the State in which he is registered.

On August 6, 2003, Respondent, acting *pro se,* timely requested a hearing in this matter. On August 22, 2003, Administrative Law Judge Gail A. Randall (Judge Randall) issued the Government, as well as Respondent, an Order for Prehearing Statements.

In lieu of filing a prehearing statement, the Government filed Government's Request for Stay of Proceedings and Motion for Summary Disposition. The Government argued Respondent was without authorization to handle controlled substances in the State of Florida and, as a result, further proceedings in the matter were not required. Attached to the Government's motion was a copy of the State of Florida, Department of Health's Order of Emergency Suspension of License, indefinitely suspending Respondent's license to practice medicine in Florida, effective as of September 11, 2002.

On September 3, 2003, Judge Randall issued an Order and Notice providing Respondent an opportunity to respond to the Government's motion. Respondent filed a timely response, which included a concession that his authority to prescribe controlled substances in the State of Florida was then currently, albeit temporarily, suspended. Based on other issues raised in that response, Judge Randall ordered the Government to file an amendment to its Motion for Summary Disposition, which it did on October 10, 2003. Subsequently, the Government filed its October 14, 2003, Motion to Rescind Amended Motion for Summary Disposition (first amended motion), requesting that its accompanying Second Amended Motion for Summary Disposition be considered in lieu of the first amended motion. Judge Randall denied the motion to rescind the first amended motion as it was then a part of the administrative record. However, she accepted the Second Amended Motion for Summary Disposition for consideration on the merits.

On November 7, 2003, Judge Randall issued her Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision). As part of her recommended ruling, Judge Randall granted the Government's Motion for Summary Disposition, finding Respondent lacked authorization to handle controlled substances in Florida, the jurisdiction in which he is registered. Judge Randall recommended that Respondent's DEA registration be revoked and any pending applications for renewal or modification of that registration be denied. No exceptions were filed by either party to Judge Randall's Opinion and Recommended Decision and on December 15, 2003, the record of these proceedings was transmitted to the Office of the DEA Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Deputy Administrator finds that Respondent holds DEA Certificate of Registration, BI3210642, which expired on November 30, 2003, after initiation of these proceedings. The Deputy Administrator further finds that, effective as of September 11, 2002, the State of Florida, Department of Health issued its Order of Emergency Suspension of License, suspending respondent's authority to practice as a physician in the State of Florida. There is no evidence in the record indicating that this suspension has been stayed or that Respondent's license has been reinstated. As a result, he is not currently authorized to prescribe, dispense, administer, or otherwise handle controlled substances in the

State of Florida, his place of DEA registration.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without State authority to handle controlled substances in the State in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Karen Joe Smiley, M.D.,* 68 FR 48944 (2003); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 53 FR 11919 (1988). Revocation is also appropriate when a State license has been suspended, but with a possibility of future reactivation. *See Anne Lazar Thorn, M.D.,* 62 FR 12,847 (1997).

Here, it is clear Respondent currently lacks authority to handle controlled substances in Florida, the State in which he is registered with DEA as a practitioner. Therefore, DEA does not have authority to maintain Respondent's DEA Certificate of Registration for his Florida practice or to grant any pending applications for renewal or modification of that registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BI3210642, issued to Alton E. Ingram, Jr., M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective May 26, 2004.

Dated: April 7, 2004.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. 04–9331 Filed 4–23–04; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Registration

By Notice dated November 14, 2003, and published in the **Federal Register** on December 2, 2003 (68 FR 67475), Lifepoint, Inc., 10400 Trademark Street, Rancho Cucamonga, California 91730, made application by renewal to the Drug Enforcement Administration for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Tetrahydrocannabinols (7370) | I |
| 3,4-Methylenedioxyamphetamine (7400). | I |
| 3,4-Methylenedioxy-N-ethylamphetamine (7404). | I |
| 3,4-Methylenedioxymethamphetamine (7405). | I |
| Amphetamine (1100) | II |
| Methamphetamine (1105) | II |
| Phencyclidine (7471) | II |
| Benzoylecogonine (9180) | II |
| Morphine (9300) | II |

The firm plans to produce small quantities of controlled substances for use in drug test kits.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Lifepoint, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Lifepoint, Inc. to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed is granted.

Dated: April 1, 2004.

**William J. Walker,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 04–9329 Filed 4–23–04; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Daniel A. Maynard, D.O.; Revocation of Registration

On June 23, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Daniel A. Maynard, D.O. (Dr. Maynard) of Dallas, Texas, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AM5672591 under 21 U.S.C. 824(a) and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Maynard is not currently authorized to practice medicine or handle controlled substances in Texas, his State of registration and practice. The order also notified Dr. Maynard that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Maynard at his address of record at 2929 Martin Luther King Jr. Blvd., Dallas, Texas 75215. According to the return receipt, on or around June 30, 2003, the Order was accepted on Dr. Maynard's behalf. DEA has not received a request for hearing or any other reply from Dr. Maynard or anyone purporting to represent him in this matter.

Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Maynard is deemed to have waived his hearing right. *See Samuel S. Jackson, D.D.S.,* 67 FR 65145 (2002); *David W. Linder,* 67 FR 12579 (2002). After considering material from the investigative file, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Maynard currently possesses DEA Certificate of Registration AM5672591. The Acting Deputy Administrator further finds that, effective June 20,2003, the Disciplinary Panel of the Texas State Board of Medical Examiners temporarily suspended Dr. Maynard's medical license. The suspension was based upon findings of fact that, *inter alia,* Dr. Maynard ''exhibited a pattern of conduct involving improper non-therapeutic and medically unnecessary prescribing of narcotics, controlled substances and dangerous drugs to patients'' and that such conduct ''appears to have resulted in patient harm and is related to their deaths from apparent drug overdoses.'' Additionally, on June 20, 2003, the Texas Department of Public Safety, based upon the Board of Medical Examiner's license suspension, revoked Dr. Maynard's State of Texas, Department of Safety, Controlled Substance Registration.

The investigative file contains no evidence that the Board of Medical Examiner's Temporary Suspension Order has been stayed or that Dr. Maynard's medical license has been reinstated. Therefore, the Acting Deputy