Sixth Circuit recently observed: ''Candor during DEA investigations * * * is considered by the DEA to be an important factor when assessing whether a physician's registration is consistent with the public interest.'' *Hoxie* v. *DEA*, 419 F.3d 477, 483 (2005). Our cases accordingly hold that '''falsification cannot be tolerated.''' *VI Pharmacy*, 69 FR at 5585 (quoting *Murphy*, 61 FR at 2845) (other citation omitted). Respondent's failure to truthfully answer the question regarding prior state disciplinary actions is thus reason alone to revoke his registration.

Respondent's drug dealing provides an additional ground for revoking his registration. Such conduct clearly constitutes acts which ''render his registration * * * inconsistent with the public interest.'' *See* 21 U.S.C. 824(a)(4). Moreover, while the CSA sets forth five factors to be considered in determining the public interest, *see id.* § 823(f), I am ''not required to make findings as to all of the factors, and can give each factor the weight [I] determine[] is appropriate.'' *Hoxie*, 419 F.3d at 482; *see also Morall* v. *DEA*, 412 F.3d 165, 173–74 (D.C. Cir. 2005). Where, as here, a registrant has engaged in such egregious misconduct as drug dealing, a lengthy analysis of each of the factors is unnecessary.

It is indisputable that Respondent did not comply with applicable State and Federal laws ''relating to controlled substances'' and that his conduct ''threaten[s] public health and safety.'' 21 U.S.C. 823(f)(4) and (5). Furthermore, while the investigative file does not contain evidence establishing what action the Medical Board of California took in response to this investigation, *see id.* § 823(f)(1), I have taken official notice of the fact that on February 24, 2006, Respondent surrendered his California medical license in response to the State Board's accusation that Respondent committed unprofessional conduct for, *inter alia*, violating state and federal drug laws.[3] *See also id.* § 824(a)(3). Thus, it is clear that Respondent ''has committed such acts as would render his registration * * * inconsistent with the public interest as determined under'' section 823(f). Id. § 824(a)(4). The revocation of Respondent's registration is therefore necessary to protect the public interest.

## Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b) and 0.104, I hereby order that DEA Certificate of Registration, AA0092558, issued to Peter A. Ahles, M.D., be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective September 25, 2006.

Dated: August 15, 2006.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. E6–14050 Filed 8–23–06; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 05–27]**

### Michael's Discount Pharmacy; Revocation of Registration

On April 8, 2005, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and further ordered the immediate suspension of DEA Certification of Registration, BM8291572, issued to Michael's Discount Pharmacy (Respondent) of Kenner, Louisiana. The Show Cause Order proposed to revoke Respondent's registration and to deny any pending applications for renewal or modification of its registration on the ground that Respondent's continued registration as a retail pharmacy would be inconsistent with the public interest. *See* 21 U.S.C. 823(f) and 824(a). The Show Cause Order also immediately suspended Respondent's registration based on my preliminary finding that Respondent's continued registration constitutes an imminent danger to public health and safety ''because of the substantial likelihood that [Respondent would] continue to divert controlled substances to drug abusers.'' *See* Show Cause Order at 17; *see also* 21 U.S.C. 824(d). The Order further notified Respondent of its right to a hearing. *See* Show Cause Order at 17–18.

The Show Cause Order specifically alleged that Respondent was purchasing enormous amounts of hydrocodone products, a Schedule III controlled substance, and that its purchases dwarfed the quantities of the same drugs that were bought by other retail pharmacies in the same area. For example, the Show Cause Order alleged that from January 2, 2004, through February 3, 2005, Respondent purchased 2,486,600 dosage units of Hydrocodone 10/650. *Id.* at 3. The Order further alleged that the next largest pharmacy purchaser had bought only 13,500 dosage units in the same time period. *Id.* The Order also alleged that during the year 2004, Respondent was the second largest purchaser of hydrocodone products in the State of Louisiana. *Id.*

The Show Cause Order alleged that Respondent was filling large amounts of combination prescriptions consisting of hydrocodone, either alprazolam or diazepam (both Schedule IV depressants), and carisoprodol, a non-controlled analgesic that metabolizes into meprobamate, a Schedule IV depressant, and which is often used by drug abusers in conjunction with narcotics. *See id.* at 4. The Show Cause Order alleged that these ''combination prescriptions are issued to persons of all types, regardless of their age, weight, height, gender and complaint.'' *Id.* The Order also alleged that an accountability audit had found multiple discrepancies which included large underages of hydrocodone, diazepam, and alprazolam products. *See id.* at 5.

Most significantly, the Show Cause Order alleged that the Kenner Police Department (KPD) had received numerous complaints of persons illegally selling prescription drugs in Respondent's parking lot. *Id.* at 8. The Show Cause Order described the arrests of more than twenty individuals (who were first observed either leaving Respondent's store or in its parking lot) for either the illegal possession of controlled substances or the illegal distribution of controlled substances which had been obtained from Respondent. *See id.* at 9–17. The Show Cause Order further alleged that many of the arrestees had continued to obtain large quantities of combination prescriptions from Respondent even after their arrests. *See id.* The Order also alleged that a number of the arrestees possessed other controlled substances such as marijuana and

[3] Although the Show Cause Order did not allege Respondent's loss of state authority as a ground for this proceeding, the CSA does not authorize DEA ''to maintain a registration if the registrant is without state authority to handle controlled substances in the state in which he practices.'' *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006). DEA has consistently applied this rule. *Id.; see also Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988). Because Respondent no longer has authority under California law to handle controlled substances, he is not entitled to maintain his DEA registration and revocation of his registration is warranted for this reason as well. Furthermore, an allegation that a practitioner has committed acts that render his continued registration inconsistent with the public interest incorporates the statutory factors of 21 U.S.C. 823(f). *See* 21 U.S.C. 824(a)(4). The first factor requires consideration of ''[t]he recommendation of the appropriate State licensing board or professional disciplinary authority.'' *See id.* § 823(f)(1). An allegation brought under section 824(a)(4) thus provides adequate notice that a loss of a State license may be considered during the proceeding.

methamphetamine. *See id.* at 9, 11–13. The Order also alleged that Respondent's employees knew that the KPD was arresting Respondent's customers, that customers would often complain about the police, and that the police would sometimes enter the pharmacy to look for a suspect. *See id.* at 16. In addition, many of Respondent's customers were from out of town. *See id.*

The Show Cause Order also recounted the facts surrounding a complaint that had been filed with the Louisiana Board of Pharmacy against Respondent. The complainant alleged that on both January 17 and February 3, 2004, her 19 year old son had obtained from Respondent a combination prescription of 90 hydrocodone 10 mg., 90 carisoprodol 350 mg., and 30 alprazolam 2mg. *See id.* at 16. On February 5, 2004, the complainant's son died of respiratory failure due to acute and chronic drug use. *Id.* The autopsy's toxicology tests found elevated levels of hydrocodone and alprazolam. *See id.*

Finally, the Show Cause Order alleged that the majority of prescriptions filled by Respondent were for the aforementioned drug combination and were issued by a small group of doctors. *See id.* at 17. The Order alleged that ''[b]ased upon the sheer volume of duplicate prescriptions from the large volume of customers written by the same group of doctors, and the knowledge that [Respondent's] customers were routinely being arrested * * * after leaving'' the pharmacy, Respondent ''knows or should know that the combination prescriptions it fills are not valid prescriptions.'' *Id.* The Order thus alleged that Respondent and its pharmacists were diverting ''massive amounts of controlled substances'' in violation of 21 U.S.C. 841(a)(1), and 21 CFR 1306.04. *Id.* at 17.

On May 5, 2005, Respondent requested a hearing; the case was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. On May 25, 2005, the Government sought to stay the proceeding and moved for summary disposition. The basis for the motion was that on April 28, 2005, Respondent had entered into a consent agreement with the Louisiana Board of Pharmacy. Pursuant to the agreement, Respondent surrendered its Louisiana Controlled Dangerous Substances License. The Government thus contended that because Respondent no longer had authority under state law to engage in the distribution of controlled substances, *see* 21 U.S.C. 824(a)(3), it was no longer entitled to hold a Federal registration. The Government further contended that Respondent's request for a hearing should be dismissed.

On June 9, 2005, Respondent filed a response. Respondent advised that it did not oppose the Government's motion. Respondent further acknowledged that it had voluntarily surrendered its state license and was thus not eligible to hold a DEA registration.

On July 1, 2005, the ALJ granted the Government's motion for summary disposition. The ALJ observed that, under longstanding agency precedent, ''a registrant may not hold a DEA registration if it is without appropriate authority under the laws of the state in which it does business.'' ALJ Dec. at 2 (citing, *inter alia, Rx Network of South Florida, LLC,* 69 FR 62,093–01 (2004); *Wingfield Drugs, Inc.*, 52 FR 27,070 (1987)). The ALJ further noted that Respondent had admitted that it was no longer licensed in Louisiana and thus was not entitled to hold a DEA registration. *Id.* Because there were no material facts in dispute, the ALJ granted the Government's motion and recommended that I revoke Respondent's registration and deny any pending applications for renewal or modification of its registration. *See id.* at 2–3.

Having considered the record as a whole, I hereby issue this decision and final order. I adopt in its entirety the ALJ's opinion and recommended decision. Because the facts are straightforward and not in dispute, I conclude that there is no need to elaborate on them. As the ALJ found, Respondent is no longer authorized to distribute controlled substances under State law. Therefore, under our precedents, Respondent is not entitled to maintain its DEA registration. *See, e.g., Rx Network of South Florida,* 69 FR at 62095.

## Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b) and 0.104, I hereby order that DEA Certificate of Registration, No. BM8291572, issued to Michael's Discount Pharmacy, be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective September 25, 2006.

Dated: August 15, 2006.

**Michele M. Leonhart,**

*Deputy Administrator.*

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**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 05–15]**

### Oakland Medical Pharmacy; Revocation of Registration

On October 27, 2004, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and further ordered the immediate suspension of DEA Certificate of Registration, AO6837477, issued to Oakland Medical Pharmacy (Respondent) of Madison Heights, Michigan. The Show Cause Order proposed to revoke Respondent's pharmacy registration and to deny any pending applications for renewal or modification of its registration on the ground that Respondent's continued registration would be inconsistent with the public interest. *See* 21 U.S.C. 823(f) and 824(a). The Order of Immediate Suspension was based on my preliminary finding that Respondent's continued registration ''would constitute an imminent danger to the public health and safety because of the substantial likelihood'' that Howard Applebaum, Respondent's owner and chief pharmacist would ''continue to divert controlled substances to persons who will abuse them.'' Show Cause Order at 3. The Show Cause Order also notified Respondent of its right to a hearing. *Id.*

The Show Cause Order specifically alleged that between February 2002 and October 2004, Mr. Applebaum had ''[o]n many occasions * * * provided [two undercover] agents with refills of controlled substance prescriptions when refills had not been authorized by a physician.'' *Id.* at 2. The Show Cause Order further alleged that Mr. Applebaum had ''also provided the agents with excessive amounts of controlled substances that had not been authorized by a physician'' by providing the agents with refills when he dispensed the initial prescriptions. *Id.* The Order also alleged that Mr. Applebaum had provided refills to the agents long before their original prescriptions would have been used up. *Id.*

The Show Cause Order alleged that on July 26, 2004, Mr. Applebaum filled a controlled substance prescription for an agent ''with no authorization from her physician.'' *Id.* The Order also alleged that on the same day, the agent observed Mr. Applebaum provide another customer with two refills for a controlled substance. *Id.*

The Show Cause Order further alleged that a review Respondent's records for