

that the prescriptions were unlawful. I thus hold that Respondent violated its corresponding responsibility under Federal law and DEA's regulation by filling prescriptions which it had reason to know were not legitimate. 21 CFR 1306.04(a); *Bertolino*, 55 FR at 4730. It is also clear that Respondent has breached the Settlement Agreement by failing to comply with Federal law and DEA regulations and by failing to institute a policy to prevent the filling of unlawful prescriptions.

The evidence also supports the conclusion that Respondent violated Federal law when it dispensed numerous prescriptions for Lyrica to T.M. which were purportedly authorized by Dr. M. by telephone. The evidence shows that the prescriptions were fraudulent because Dr. M. had previously discharged T.M. from his practice and ceased writing prescriptions for her. The evidence also shows that Mr. Weeks falsely represented to a State inspector that Respondent had not dispensed Lyrica after November 28, 2008, when, in fact, it had dispensed the drug multiple times to her. At a minimum, Mr. Weeks' willingness to lie about this issue (coupled with his failure to submit any evidence rebutting the allegation) supports the inference that he and Respondent had reason to know that the prescriptions were fraudulent and yet dispensed them anyway. See 21 U.S.C. 841(a)(1) and 843(a)(3); 21 CFR 1306.04(a).

In addition, the evidence shows that Respondent repeatedly dispensed narcotic drugs such as hydromorphone (also purportedly authorized by Dr. M) to T.M. for more than six months after she had been discharged by him, and that during this time period, it also repeatedly dispensed hydrocodone based on prescriptions which were issued by J.B. (a nurse practitioner). Dr. M. and J.B. did not, however, practice together. Yet Respondent repeatedly dispensed both drugs to T.M. and even dispensed both drugs to her on the same day (May 1, 2009). Once again, it is clear that Respondent violated its corresponding responsibility under 21 CFR 1306.04(a) and the Settlement Agreement on numerous occasions.

The record further establishes that Respondent violated South Carolina law when, on August 7, 2009, it dispensed 180 tablets of Roxicodone (oxycodone) 30 mg. and 60 tablets of MS Contin (morphine sulfate) 100 mg. to J.W. based on prescriptions which were dated March 6, 2009. Both drugs are schedule II controlled substances under South Carolina law (as they are under the CSA). See S.C. Code § 44-53-210(a).

Under South Carolina law, "[p]rescriptions for Schedule II substances must be dispensed within ninety days of the date of issue, after which time they are void." *Id.* § 44-53-360(e). However, on the date Respondent dispensed these two prescriptions, they were more than five months old and were void. I thus conclude that Respondent violated South Carolina law by dispensing these prescriptions.

Finally, the Settlement Agreement clearly required that Respondent submit "quarterly reports of all schedule II controlled substances [it] dispensed." As found above, the DI's affidavit establishes that Respondent has never submitted such a report. Respondent is therefore in violation of the Settlement Agreement for this reason as well.

I therefore find that Respondent has committed acts which render its registration "inconsistent with the public interest." 21 U.S.C. 824(a)(4). Accordingly, Respondent's registration will be revoked and its pending application to renew its registration will be denied. For the same reasons which led me to order the immediate suspension of Respondent's registration, I conclude that this Order shall be effective immediately.

Order

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, BT2981214, issued to The Medicine Dropper, be, and it hereby is, revoked. I further order that any pending application of The Medicine Dropper for renewal or modification of its registration be, and it hereby is, denied. This Order is effective immediately.

Dated: April 1, 2011.

Michele M. Leonhart,
Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 08-16]

Four Seasons Distributors, Inc.; Order Accepting Settlement Agreement and Terminating Proceeding

On October 31, 2007, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Four Seasons

Distributors, Inc. (Respondent), of Belleville, Illinois. The Show Cause Order proposed the revocation of Respondent's Certificate of Registration, which authorizes it to distribute listed chemicals, and the denial of any pending applications to renew or modify the registration, on the ground that Respondent's registration is "inconsistent with the public interest." ALJ Ex. 1 (citing 21 U.S.C. 823(h) & 824(d)).

Respondent, through its counsel, requested a hearing on the allegations and the matter was assigned to an agency Administrative Law Judge (ALJ), who conducted a hearing on April 21, 2008. Thereafter, on October 30, 2009, the ALJ issued her recommended decision. Therein, the ALJ found that the Government "ha[d] not met its burden of proof in showing that the Respondent's continued registration would be against the public interest" and recommended that its registration be continued. ALJ at 37. The Government apparently agreed as it did not file exceptions to the ALJ's decision. The ALJ then forwarded the record to me for final agency action.

Thereafter, the parties "reached a settlement of all administrative matters pending before" me and filed a joint motion which requests that I terminate the proceedings. Motion to Terminate Administrative Proceedings. The parties also included a copy of the Memorandum of Agreement, setting forth the terms of their settlement.

Having reviewed the ALJ's decision and the terms of the settlement agreement, I find that the settlement is appropriate and consistent with the public interest. Accordingly, the parties' motion to terminate the proceeding is hereby granted and the Order to Show Cause is dismissed.

It is so ordered.

Dated: April 1, 2011.

Michele M. Leonhart,
Administrator.

[FR Doc. 2011-8537 Filed 4-8-11; 8:45 am]

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DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110-0002]

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-day Notice of Information Collection Under Review: Revision of a currently approved collection; Supplementary Homicide Report.