Specifically, C & H Technologies, Round Rock, TX; BAE Systems, San Diego, CA; and Conduant Corporation, Longmont, CO, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on February 24, 2011. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 25, 2011 (76 FR 16820).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2011–19962 Filed 8–8–11; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Institute of Electrical and Electronics Engineers

Notice is hereby given that, on July 1, 2011, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Institute of Electrical and Electronics Engineers (''IEEE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 55 new standards have been initiated and 33 existing standards are being revised.

More detail regarding these changes can be found at *http://standards.ieee.org/about/sba/feb2011.html, http://standards.ieee.org/about/sba/may2011.html, http://standards.ieee.org/about/sba/mar2011.html* and *http://standards.ieee.org/about/sba/jun2011.html.*

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on January 3, 2011. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 2, 2011 (76 FR 5826).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2011–19964 Filed 8–8–11; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on June 24, 2011, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Taiyo Cable (Dongguan) Co., Ltd., Gyeonggi-Do, REPUBLIC OF KOREA; Dukane Corporation, St. Charles, IL; UNIPULSE Corporation, Tokyo, JAPAN; Renesas Electronics, Tokyo, JAPAN; Jacobs Automation LLC, Hebron, KY; Welding Technology Corp., Carol Stream, IL; Micro Motion, Inc., Boulder, CO; Hitachi Cable Manchester, Inc., Manchester, NH; and Global Engineering Solutions Co., Ltd., Gyeonggi-do, REPUBLIC OF KOREA, have been added as parties to this venture.

Also, Applied Robotics, Inc., Glenville, NY; WIT, St.-Laurent-Du-Var, FRANCE; Caron Engineering, Inc., Wells, ME; and OPTO 22, Temecula, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on April 1, 2011. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 2, 2011 (76 FR 24523).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2011–19963 Filed 8–8–11; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Stacey J. Webb, M.D.; Denial of Application

On February 24, 2010, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order To Show Cause to Stacey J. Webb, M.D. (Respondent), of Chesapeake, Virginia. The Show Cause Order proposed the denial of Respondent's pending application for a DEA Certificate of Registration as a practitioner, on the ground that she had committed acts which render her registration ''inconsistent with the public interest.'' Order at 1 (citing 21 U.S.C. 823(f)).

The Show Cause Order specifically alleged that Respondent, while holding a DEA registration (which expired by its terms on May 31, 2009), had ''prescribed controlled substances to individuals in Virginia and Alabama via the Internet based on online questionnaires, submissions of unverified medical records, and/or telephone consultations without a medical examination.'' *Id.* The Order further alleged that ''[t]he prescriptions * * * were issued for other than a legitimate medical purpose or outside the usual course of professional practice.'' *Id.* (citing 21 CFR 1306.04(a)). Specifically, the Order alleged that Respondent ''failed to establish a valid physician-patient relationship'' as required by the laws of Virginia and Alabama. *Id.; see* Va. Code Ann. §§ 54.1–3303, 54.1–2915; Ala. Code § 34–24–360; Ala. Admin. Code 540–X–9–.11. Finally, the Show Cause Order alleged that Respondent holds a medical license in Virginia, but prescribed controlled substances via the internet to individuals in Alabama without possessing a controlled substance certificate as required by state law. *Id.*

at 1–2; *see* Ala. Code § 20–2–51; Ala. Admin. Code 540–X–.01.

Following service of the Show Cause Order, Respondent initially requested a hearing on the allegations and the matter was placed on the docket of the Agency's Administrative Law Judges. However, the day before the hearing was to convene, Respondent withdrew her request for a hearing and submitted a letter in lieu of a hearing. Order Terminating Proceedings, at 1; Ltr. of Respondent to Hearing Clerk (May 24, 2010) (hereinafter, Resp.'s Ltr.) Respondent did, however, respond to the allegations of the Show Cause Order. *See id.* Thereafter, the Investigative Record was forwarded to me for Final Agency Action.

Based on Respondent's letter, I find that she has waived her right to a hearing. *See* 21 CFR 1301.43(c). However, in accordance with 21 CFR 1301.43(c), Respondent's letter has been made a part of the record and will ''be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.'' *Id.* Having considered the entire record, I issue this Decision and Final Order. I make the following findings.

Findings

On July 14, 2009, Respondent [1] applied for a DEA Certificate of Registration as a practitioner, which, if granted, would authorize her to prescribe controlled substances in schedules II through V; Respondent listed an address in Chesapeake, Virginia as her registered location. GX 1. Respondent previously held a practitioner's registration, DEA number BJ4518114, which expired by its terms on May 31, 2009. Order Terminating Proceedings, at 1 n.1.

On August 1, 2006, the Virginia Board of Medicine issued Respondent a license (number 0101–240458) to practice medicine and surgery in the Commonwealth of Virginia. *In re Stacey Johnson Webb, M.D.*, Consent Order, at 1 (Va. Bd. Med., Sept. 2, 2009) (hereinafter, Va. Consent Order). Respondent did not hold a registration as required by Alabama law to prescribe controlled substances in that State. Alabama State Board of Medical Examiners, Physician/PA Search; *see also* Ikner Decl., at 9.

From approximately January 2007 through August 2008, Respondent was employed by one or more Internet pharmacy ventures known as Telemed Ventures and/or Secure Telemedicine (hereinafter, Telemed). Va. Consent Order, at 1–2.; Ikner Decl. at 2; *see also* Resp.'s Ltr.[2] While working for Telemed, Respondent issued prescriptions for controlled substances to customers who placed orders through the company's Web site. Ikner Decl. at 2.

During interviews conducted by Drug Enforcement Administration (DEA) Special Agents and Diversion Investigators with Telemed customers, Respondent's customers described learning about Telemed through an internet source. Fitzgerald Decl. at 11, Aug. 17, 2010. Once connected with the Telemed Web site, customers completed an online questionnaire, which included general health questions and Telemed disclaimer questions. *Id.*; Terpening Decl. at 14, Aug. 2, 2010. After completing the online questionnaire and paying the consultation fee, a doctor assigned to the customer by Telemed contacted the customer. Fitzgerald Decl. at 11. The customers then submitted their medical records by fax or e-mail and the doctor would call the customer again for a telephone consultation. *Id.; see also* Ikner Decl. at 2.

Following the telephone consultation with the customer, in most instances, an order for a controlled substance was issued and forwarded to a pharmacy to dispense the drugs to the customer. Ikner Decl. at 2. Respondent's customers ''could choose the type of drug and dosage desired.'' Fitzgerald Decl. at 11. One customer reported that he was ''able to receive the drug he selected every time he visited the [Telemed web]site.'' Terpening Decl. at 15.

During an interview with a DEA Investigator, Respondent admitted that she never physically examined the Telemed customers before authorizing a prescription, but stated that she spoke with them by telephone every other month. Tribble Decl. at 12, Aug. 2, 2010. Respondent also admitted that she did not have any medical records for the customers, but only ''prescription originals.'' *Id.* She also had not previously treated the Telemed customers. Ikner Decl. at 8. According to those customers who were interviewed, while they may have had a primary physician, they sought prescriptions from Telemed for pain medications, such as hydrocodone, because their treating physicians would no longer prescribe the drug to them. Fitzgerald Decl. at 11. Moreover, the customers' primary physicians did not refer them to Telemed. *Id.*

Each of the customers who were interviewed provided a description of their interaction with Telemed, and all of them stated that they received prescriptions from Respondent; their prescriptions are contained in the investigative file. *Id.;* Terpening Decl., at 14–15. For example, in just over two months, Respondent authorized four prescriptions for 90 hydrocodone/apap (acetaminophen) (10/325 mg) tablets [3] to Customer T.F., who lived approximately 145 miles from Respondent's practice. *See* GX 3 (Rxs dated Sept. 6 and 26, Oct. 22, and Nov. 14, 2007). In addition, in less than a year's time, Respondent authorized ten prescriptions for 90 hydrocodone/apap (10/500 mg) tablets to Customer D.H., who resided approximately 180 miles from Respondent's practice. *See* GX 9 (Rxs dated Oct. 15, Nov. 16, Dec. 10, 2007, Jan. 7 and 31, April 18, May 16, June 11, July 18, and Sept. 9, 2008). The record also contains prescriptions for hydrocodone and Ambien [4] which Respondent authorized for six additional customers who were interviewed by the Investigators; none of the customers lived closer than 140 miles from Respondent's practice.[5]

While she was employed by Telemed, Respondent based her practice in and around Norfolk, Virginia. *See e.g., id.* During this time, Respondent stated that she wrote prescriptions for patients in Virginia and Georgia.[6] Tribble Decl. at 12. The record further contains spreadsheets purporting to indicate that she authorized prescriptions to patients in Alabama.[7] Ikner Decl. at 8.

[1] Respondent is referred to throughout investigative file by the names Stacey Johnson Webb, Stacey J. Webb, and Stacey Johnson. When using any of the three names, Respondent consistently listed Virginia Board of Medicine license number 0101–240458. Accordingly, I find that all three names refer to the same person.

[2] Respondent's own letter uses the names—Telemed Ventures and Secure Telemedicine—interchangeably, suggesting that they are one and the same.

[3] This formulation of hydrocodone is a schedule III controlled substance. 21 CFR 1308.13(e)(iv).

[4] Ambien (zolpidem) is a schedule IV controlled substance. 21 CFR 1308.14(c)(51).

[5] *See* GX 4 (Rxs issued to L.D. for hydrocodone/apap 10/325 mg on Oct. 10 and Nov. 2, 2007); GX 5 (Rxs issued to R.M. for hydrocodone/apap 10/325 mg on Aug. 13, Oct. 29, Dec. 31, 2007, and Jan. 30, 2008); GX 6 (Rxs issued to N.N. for hydrocodone/apap 10/325 mg on July 30, Aug. 21, Sept. 24, Oct. 29, Dec. 24, 2007, and Jan. 17, 2008); GX 7 (Rxs issued to R.D. for zolpidem on Dec. 19, 2007, Jan. 18, Feb. 12, Mar. 10, and April 7, 2008); GX 8 (Rxs issued to N.C. for hydrocodone/apap 10/325 mg on Jan. 18 and Feb. 13, 2008); GX 10 (Rxs issued to K.H. for hydrocodone/apap 10/500 mg on Oct. 2 and 29, Dec. 13, 2007, Jan. 7, Feb. 4, Mar. 3, April 24, May 20, June 20, July 11, and Sept. 4, 2008).

[6] The Order To Show Cause did not, however, allege that Respondent issued prescriptions to customers in Georgia.

[7] The only evidence of Respondent's having issued prescriptions to customers in Alabama is a

Continued

On September 2, 2009, the Virginia Board of Medicine found that Respondent violated Va. Code §§ 54.1–2915.A(13), (17) and 54.1–3303(A), by prescribing controlled substances over the Internet. Consent Order, at 1. More specifically, the Board found that from July 2007 through October 2008, Respondent prescribed controlled substances, including opioids (schedule III hydrocodone), outside of a bona fide practitioner-patient relationship to numerous persons who ''sought medical services'' on the Web site TopLineRx.com; the patients were assigned to Respondent by her employer, Secure Telemedicine, LLC, which also owned the Web site. *Id.* at (1) The Board concluded that Respondent issued prescriptions to these individuals without having contact beyond a telephone conversation, seeing the individuals in person, or performing a physical examination of them (either in person or through the use of instrumentation and diagnostic equipment). *Id.* at 1–2.

Discussion

Section 303(f) of the Controlled Substances Act (CSA) provides that an application for a practitioner's registration may be denied upon a determination ''that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 823(f). In making the public interest determination in the case of a practitioner, Congress directed that the following factors be considered:

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

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

(3) The Respondent'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.*

''[T]hese factors are considered in the disjunctive.'' *Robert A. Leslie*, 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 * * * to deny an application. *Id.* Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005) (citing *Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005)).

With respect to a practitioner's registration, the Government bears the burden of proving by a preponderance of the evidence that granting the application would be inconsistent with the public interest. 21 CFR 1301.44(d). However, where the Government has made out a *prima facie* case, the burden shifts to the applicant to ''present[] sufficient mitigating evidence'' to show why she can be entrusted with a new registration. *Medicine Shoppe-Jonesborough,* 73 FR 364, 387 (2008) (quoting *Samuel S. Jackson,* 72 FR 23848, 23853 (2007) (quoting *Leo R. Miller,* 53 FR 21931, 21932 (1988))), *aff'd, Medicine Shoppe-Jonesborough* v. *DEA,* 2008 WL 4899525 (6th Cir. 2008).

''Moreover, because 'past performance is the best predictor of future performance,' *ALRA Labs, Inc.* v. *DEA,* 54 F.3d 450, 452 (7th Cir.1995), [DEA] has repeatedly held that where a registrant has committed acts inconsistent with the public interest, the registrant must accept responsibility for [his] actions and demonstrate that [he] will not engage in future misconduct.'' *Medicine Shoppe,* 73 FR at 387. *See also Jayam Krishna-Iyer,* 74 FR 459, 464 (2009) (''[E]ven where the Agency's proof establishes that a practitioner has committed only a few acts of diversion, this Agency will not grant or continue a practitioner's registration unless he accepts responsibility for his misconduct.''); *Hoxie,* 419 F.3d at 483 (''admitting fault'' is ''properly consider[ed]'' by DEA to be an ''important factor'' in the public interest determination); *Cuong Trong Tran,* 63 FR 64280, 62483 (1998); *Prince George Daniels,* 60 FR 62884, 62887 (1995).

In this matter, while I have considered all of the factors, I conclude that it is not necessary to make findings with respect to factors one (the recommendation of the state licensing board), three (Respondent's conviction record), and five (such other conduct which may threaten public health and safety). I find that the Government's evidence with respect to Respondent's experience in dispensing controlled substances (factor two) and her compliance with applicable Federal and State laws related to the distribution and dispensing of controlled substances (factor four) makes out a *prima facie* case that Respondent has committed acts which render her registration ''inconsistent with the public interest.'' 21 U.S.C. 823(f), 824(a)(4). I further find that Respondent has not rebutted the Government's *prima facie* case and will therefore deny her application.

Factors Two and Four—Respondent's Experience in Dispensing Controlled Substances and Compliance With Applicable Laws Related to Controlled Substances

Under a longstanding DEA regulation, a prescription for a controlled substance is not ''effective'' unless it is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of [her] professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning and intent of [21 U.S.C. 829] and * * * the person issuing it, shall be subject to the penalties provided for violations of the provisions of law related to controlled substances.'' *Id.; see also* Va. Code Ann. § 54.1–3303 (''A prescription not issued in the usual course of treatment * * * is not a valid prescription.'').

As the U.S. Supreme Court has explained, ''the [CSA's] prescription requirement * * * ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *United States* v. *Moore,* 423 U.S. 122, 135, 143 (1975)).

Under the CSA, it is fundamental that a practitioner must establish and maintain a bona fide doctor-patient relationship in order to act ''in the usual course of * * * professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' *Laurence T. McKinney,* 73 FR 43260, 43265 n.22 (2008); *see also Moore,* 423 U.S. at 142–43 (noting that evidence established that physician ''exceeded the bounds of 'professional practice,'' when ''he gave inadequate physical examinations or none at all,'' ''ignored the results of the tests he did make,'' and ''took no precautions against * * * misuse and diversion''). At the time of the events at issue here, the CSA generally looked to state law to determine whether a doctor and patient have established a bona fide doctor-patient relationship. *See Kamir Garces-Mejias,* 72 FR 54931, 54935 (2007); *United Prescription Services, Inc.,* 72 FR 50397, 50407 (2007); *but see* 21 U.S.C. 829(e)(2)(B) (providing federal standard for prescribing over the Internet as of October 15, 2008).

spreadsheet, which purports to list prescriptions Respondent issued to customers in Alabama. However, the Investigative Record does not explain how and when this document was obtained. In the absence of a foundation for this evidence, I conclude that the record lacks substantial evidence proving the allegation that Respondent issued prescriptions to customers in Alabama.

Under Virginia law, a ''prescription * * * may be issued only to persons * * * with whom the practitioner has a bona fide practitioner-patient relationship.'' Va. Code Ann. § 54.1–3303(A). The statute defines the term ''bona fide practitioner-patient-pharmacist relationship'' as ''one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice.'' *Id.* To establish a ''bona fide practitioner-patient relationship,'' the ''practitioner shall'' meet the following criteria:

(i) [E]nsure that a medical or drug history is obtained;

(ii) [P]rovide information to the patient about the benefits and risks of the drug being prescribed;

(iii) [P]erform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and

(iv) [I]nitiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. *Id.*

Respondent violated the CSA's prescription requirement because she did not establish a bona fide doctor-patient relationship with the Telemed customers. While Respondent was a resident of Virginia, her practice was located a substantial distance from the majority of the Virginia residents she prescribed to through Telemed. Most significantly, Respondent admitted to Investigators that she prescribed on the basis of telephonic consultations and did not conduct a physical examination of the customers; she also admitted that she did not maintain medical records for them.

In her letter responding to the allegations, Respondent maintained that her ''actions met [Virginia's] definition of a practitioner-patient relationship.'' Resp.'s Ltr. at 1. First, Respondent maintained that patients submitted their medical records, that Telemed scrutinized the documents for legitimacy, and that she reviewed records and called the customer's primary care physician and/or consultant. *Id.* Second, Respondent stated that she provided information to her customers regarding the risks and benefits of each medication and that this information was documented in the Telemed medical record. *Id.* Third, Respondent maintained that she only continued a treatment plan initiated by the primary care provider or specialist, and that she did not ''make a new diagnosis or initiate a new medication.'' *Id.* Finally, Respondent wrote that the Telemed customers were ''required to see their primary care physician or consultant at least every three months to update their condition, diagnosis and/or treatment plan.'' *Id.*

In her letter, Respondent maintained that based on her ''literal reading of the Virginia code,'' her actions met the definition of a practitioner-patient relationship. *Id.* Respondent also argued that under ''case law and other sources,'' a physician patient ''relationship is established when a patient seeks medical care and/or advice from a practitioner, and the practitioner knowingly provides medical care and/or advice to the patient.'' *Id.* at 2.

That may be as a matter of tort liability, but that does not mean that the relationship complies with accepted standards of medical practice necessary to properly diagnose a patient and issue treatment recommendations, including prescribing a controlled substance. Indeed, the Virginia Board found Respondent's position unavailing, concluding that she ''issu[ed] prescriptions to [customers of the website] despite the fact that her contact with the individuals was solely by telephone and despite the fact that she never saw these individuals in person, and did not perform any examination of them either physically or by the use of instrumentation and diagnostic equipment.'' Consent Order at 1–2. The Board further concluded that Respondent ''prescribed controlled substances including opioids * * * to numerous individuals outside of a bona fide practitioner-patient relationship.'' *Id.* at 1.

In numerous other cases involving practitioners who prescribed controlled substances over the internet and telephone to persons they had never physically examined and with whom they did not establish a bona-fide doctor-patient relationship, DEA has denied pending applications and revoked registrations pursuant to its authority under 21 U.S.C. 824(a)(4). *See Ladapo O. Shyngle, M.D.,* 74 FR 6056 (2009) (denying application for DEA registration after Respondent issued prescriptions outside bona fide doctor-patient relationship with customers of a website); *see also Ronald Lynch, M.D.,* 75 FR 78745 (2010); *George Mathew, M.D.,* 75 FR 66138 (2010); *Patrick W. Stodola, M.D.,* 74 FR 20727 (2009); *Dale L. Taylor, M.D.,* 72 FR 30855 (2007); *Andre DeSonia, M.D.,* 72 FR 54293 (2007). Likewise, several Federal courts have held that such prescribing constitutes a criminal violation of the CSA. *United States* v. *Nelson,* 383 F.3d 1227, 1231–32 (10th Cir. 2004); *cf. United States v. Smith,* 573 F.3d 639, 657–58 (8th Cir. 2009); *United States* v. *Fuchs,* 467 F.3d 889 (5th Cir. 2006).

I therefore conclude that because Respondent failed to establish a legitimate physician-patient relationship with various persons found above, she lacked a legitimate medical purpose and acted outside of the usual course of professional practice in prescribing controlled substances to them and thus violated Federal law. *See* 21 CFR 1306.04(a); 21 U.S.C. § 841(a)(1). I further conclude that Respondent's experience in dispensing controlled substances (factor two) and record of compliance with applicable laws related to controlled substances (factor four) establishes that granting Respondent's application for a new registration ''would be inconsistent with the public interest.'' 21 U.S.C. 823(f). Finally, based on Respondent's letter, I find that Respondent has failed to accept responsibility for her misconduct and has therefore not rebutted the Government's *prima facie* case. *See, e.g., Krishna-Iyer,* 74 FR at 464; *see also Hoxie,* 419 F.3d at 483. Accordingly, Respondent's application will be denied.

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 Stacey J. Webb, M.D., for a DEA Certificate of Registration as a practitioner be, and it hereby is, denied. This order is effective September 8, 2011.

Dated: August 2, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2011–20046 Filed 8–8–11; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 09–1]

Liddy's Pharmacy, L.L.C. Denial of Application

On September 15, 2008, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA or ''Government''), issued an Order to Show Cause to