

As found above, upon reviewing the patient files of the undercover officers as well as D.V., the Government's Expert found that Applicant issued controlled substances for other than a legitimate medical purpose and outside the usual course of professional practice. As support for his conclusion, the Expert observed that Applicant failed to perform detailed histories and adequate physical examinations, failed to develop any treatment plan other than to prescribe controlled substances, prescribed large and excessive doses of controlled substances, failed to properly monitor patients, and failed to keep legible and complete medical records. I agree with the Expert's analysis and conclude that Applicant knowingly diverted controlled substances including oxycodone (schedule II) and alprazolam (schedule IV) to the undercover officers and D.V. and thus violated federal law. 21 U.S.C. 841(a)(1); 21 CFR 1306.04(a). I further find that Applicant's misconduct was egregious. This finding provides reason alone to deny Applicant's application.

However, the record also supports the conclusion that Applicant exceeded the authority of his registration by prescribing controlled substances in schedules which were outside the scope of his registration. Pursuant to 21 U.S.C. 822(b), "[p]ersons registered by the Attorney General . . . to . . . dispense controlled substances . . . are authorized to possess . . . or dispense such substances . . . to the extent authorized by their registration." (emphasis added).

As found above, on October 5, 2009, Applicant applied for a new registration as a practitioner. Notwithstanding that the application form clearly instructed him to check all drug schedules for which he sought authority, Applicant checked the box for only schedule II narcotics. Accordingly, the Agency granted him a registration which was limited to schedule II narcotics. Applicant did not seek authority to dispense controlled substances in the additional schedules until June 6, 2011.

Thus, between October 6, 2009 (the date the application was granted) and June 6, 2011, Applicant could not lawfully prescribe any controlled substances outside of those narcotics in schedule II. The record, however, contains fifteen prescriptions for Xanax (alprazolam) and two prescriptions for Valium (diazepam), both of which are schedule IV controlled substances, as well as five prescriptions for Adderall (amphetamine), a schedule II non-narcotic, which Applicant issued without authority to do so. Even though Applicant eventually obtained a

registration for the remaining drug schedules, Applicant was responsible for ensuring that he had obtained the necessary authority for each schedule of controlled substances he intended to dispense. I thus conclude that Applicant violated federal law by dispensing controlled substances for which he lacked authorization. 21 U.S.C. 822(b) & 841(a)(1).

Accordingly, I find that the Government's evidence with respect to factor two and four establishes a *prima facie* case that granting Applicant's application "would be inconsistent with the public interest." *Id.* § 823(f). Because Applicant failed to respond to the Show Cause Order, whether by requesting a hearing or submitting a written statement, and thus has failed to offer any evidence to the contrary, 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) and 0.104, I order that the application of Richard D. Vitalis, D.O., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This Order is effective immediately.

Dated: November 10, 2014.

Thomas M. Harrigan,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

TIME AND DATE: 10:30 a.m., Friday, November 21, 2014.

PLACE: U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC

STATUS: Closed.

MATTERS TO BE CONSIDERED: Determination on seven original jurisdiction cases.

CONTACT PERSON FOR MORE INFORMATION: Jacqueline Graham, Staff Assistant to the Chairman, U.S. Parole Commission, 90 K Street NE., 3rd Floor, Washington, DC 20530, (202) 346-7001.

Dated: November 14, 2014.

Isaac Fulwood,

Chairman, U.S. Parole Commission.

[FR Doc. 2014-27444 Filed 11-14-14; 4:15 pm]

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DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Certificate of Medical Necessity

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, "Certificate of Medical Necessity," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before December 18, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at http://www.reginfo.gov/public/do/PRAViewICRref_nbr=201410-1240-001 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Authority: 44 U.S.C. 3507(a)(1)(D).