

the pharmacy permit of KK pharmacy on probation for five years. While the Missouri Board's action was ultimately declared null and void in November 1996, it was in effect in November 1993 when Mr. Vossman submitted the renewal application.

Finally, while Mr. Vossman did answer "Yes" to the liability question on KK Pharmacy's renewal application dated November 22, 1996, he failed to note in his explanation for his response that he had entered into a Memorandum of Understanding with the Missouri BNDD in 1994; that his Kansas pharmacist license was suspended and then placed on probation in 1980; and that he surrendered the DEA registration of his wholesale distributor in 1981.

The Deputy Administrator concludes that Mr. Vossman materially falsified KK Pharmacy's 1990, 1993 and 1996 renewal applications for its DEA Certificate of Registration, and therefore grounds exist to revoke the pharmacy's DEA registration.

Next, pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

- (1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
- (2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.
- (3) The applicant'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.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989).

As to factor one, the file is replete with actions against KK Pharmacy and Mr. Vossman by various state licensing agencies. Mr. Vossman's Kansas pharmacist license was suspended in 1980 and then placed on probation. KK Pharmacy entered into a Memorandum of Understanding with the Missouri BNDD in 1994, and again in 1995.

Action was taken by the Missouri BNDD to deny KK Pharmacy's state controlled substance registration in December 1996. The pharmacy was ultimately issued a new state controlled substance registration in July 1997 that was subject to various terms and conditions for five years. Then in 1998, Mr. Vossman's pharmacist permit was revoked by the Missouri Board, but that revocation was stayed pending appeal of the Missouri Board's Order.

Factors two and four, KK Pharmacy's experience in dispensing controlled substances and its compliance with applicable laws, are clearly relevant in determining the public interest. In 1980, Mr. Vossman diverted controlled substances from his then pharmacy and wholesale distributor for his wife's personal use without a physician's authorization. Between 1988 and 1997, the Missouri Board conducted ten inspections of the pharmacy which revealed numerous repeated violations. Particularly noteworthy is that Mr. Vossman continued to dispense controlled substances on a number of occasions without a physician's authorization.

In 1997, Mr. Vossman was given another chance by the Missouri Board to come into compliance. However, the consulting pharmacist hired to review KK Pharmacy's handling of controlled substances reported in March 1998 that, "there have been attempts to hide or cover missing information needed * * * to make an accurate assessment of the pharmacy's compliance with the agreement." The consulting pharmacist concluded that, "Mr. Vossman has not taken the initiative to be responsible for the pharmacy, but has expected that I or the technicians would come in and do the job for him," and that "I am not sure that Mr. Vossman has the incentive or the skills needed to comply with the terms of this agreement."

While there is no evidence under factor three that Mr. Vossman or KK Pharmacy has been convicted of a controlled substance related offense, the Deputy Administrator does find Mr. Vossman's conviction for making a false statement to receive a health care benefit relevant under factor five. A registrant's truthfulness and trustworthiness are appropriately considered in determining the public interest.

The Deputy Administrator concludes that there are serious questions as to whether Mr. Vossman and KK Pharmacy can be trusted to responsibly handle controlled substances. Accordingly, the Deputy Administrator concludes that KK Pharmacy's continued registration would be inconsistent with the public

interest and therefore grounds exist to revoke the pharmacy's DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(4).

Finally, there is a basis to revoke KK Pharmacy's DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(5). Mr. Vossman was advised by letter from the Department of Health and Human Services dated February 27, 1998, that pursuant to 42 U.S.C. 1320a-7(a) he was excluded from participation in the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs for a period of five years. The Deputy Administrator finds that while this exclusion was based upon Mr. Vossman's conviction for a non-controlled substance related offense, DEA has previously held that misconduct which does not involve controlled substances may constitute grounds, under 21 U.S.C. 824(a)(5), for the revocation of a DEA Certificate of Registration. See Stanley Dubin, D.D.S., 61 FR 60727 (1996), George D. Osafo, M.D., 58 FR 37508 (1993); Gilbert L. Franklin, D.D.S., 57 FR 3441 (1992).

Therefore, the Deputy Administrator concludes that grounds exist to revoke KK Pharmacy's DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(1), (4), and (5). No evidence of explanation or mitigating circumstances was offered by KK Pharmacy, Mr. Vossman, or anyone purporting to represent the pharmacy.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BK1488104, previously issued to KK Pharmacy, be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective October 13, 1999.

Dated: August 24, 1999.

Donnie R. Marshall,

Deputy Administration.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 22,

1999, Novartis Pharmaceutical Corporation, 59 Route 10, East Hanover, New Jersey 07926, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture finished product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 12, 1999.

Dated: August 31, 1999.

John H. King,

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

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2015-99; AG Order No. 2254-99]

RIN 1115-AE 26

Extension of Designation of Somalia Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends the Attorney General's designation of Somalia under the Temporary Protected Status (TPS) program until September 17, 2000. Eligible nationals of Somalia (or aliens having no nationality who last habitually resided in Somalia) may re-register for TPS and an extension of employment authorization. Re-registration is limited to persons who registered for the initial period TPS, which ended on September 16, 1992, or who registered after that date under the late initial registration provision.

Persons who are eligible for late initial registration may register for TPS during this extension.

EFFECTIVE DATES: The extension of the TPS designation for Somalia is effective September 18, 1999, and will remain in effect until September 17, 2000. The 30-day re-registration period begins September 13, 1999 and will remain in effect until October 13, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Services Branch, Adjudications, Immigration and Naturalization Service, Room 3214, 425 I Street, NW, Washington, DC 20536, telephone (202) 514-4754.

SUPPLEMENTARY INFORMATION:

What Authority Does the Attorney General Have to Extend the Designation of Somalia Under the TPS Program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (Act) states that at least 60 days before the end of an extension or a designation, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General determines that the foreign state

continues to meet the conditions for designation, the period of extension is extended, pursuant to section 244(b)(3)(C) of the Act. 8 U.S.C. 1254a(b)(3)(C). Through such an extension, TPS is available only to persons who have been continuously physically present and have continuously resided in the United States from the effective date of the initial designation, in this case, since September 16, 1991.

Who Did the Attorney General Decide To Extend the TPS Designation for Somalia?

On September 16, 1991, the Attorney General initially designated Somalia under the TPS program for a period of 12 months. 56 FR 46804. Since that date, the Departments of State and Justice have annually reviewed conditions within Somalia. Based on this year's review, the Attorney General finds that the armed conflict in Somalia is ongoing, and that the extraordinary and temporary conditions that provided a basis for the initial TPS designation continue to warrant the extension of Somalia's TPS designation. 8 U.S.C. 1254a(b)(1)(C).

If I Currently Have TPS, How Do I Register for an Extension?

Persons previously granted TPS under the Somalia program may apply for an extension by filing a Form I-821, Application for Temporary Protected Status, without the fee, during the re-registration period that begins September 13, 1999 and ends October 13, 1999. Additionally, you must file a Form I-765, Application for Employment Authorization. See the chart below to determine whether or not you must submit the one-hundred dollar (\$100) filing fee with the Form I-765.

If—	Then—
You are applying for employment authorization through September 17, 2000.	You must complete and file the Form I-765, Application for Employment Authorization, with the one-hundred dollar (\$100) fee.
You already have employment authorization or do not require employment authorization.	You must complete and file the Form I-765, Application for Employment Authorization, with no fee.
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file Form I-765 and a fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20.

To re-register for TPS, you also must include two identification photographs (1½" x 1½").

Is Late Registration Possible?

Yes. In addition to timely re-registration, late initial registration is possible for some persons from Somalia under 8 CFR 244.2(f)(2). To apply for

late initial registration an applicant must

- (1) be a national of Somalia (or alien having no nationality who last habitually resided in Somalia);
- (2) have been continuously physically present in the United States since September 16, 1991;

(3) have continuously resided in the United States since September 16, 1991; and

- (4) be admissible as an immigrant, except as otherwise provided in section 244(c) of the Act. 8 CFR 244.2(f)(2).

Additionally, the applicant must be able to demonstrate that, during the initial registration period from