pertaining to the Pennsylvania and Vermont customers; as well as evidence regarding the manner in which the CHS/ISG scheme operated including the statements of Mr. Almeida in both his telephone conversations with the TFO and in his e-mail; I conclude that Respondent issued controlled-substance prescriptions to numerous persons without establishing a valid physician/patient relationship with them and that the prescriptions were not issued for a legitimate medical purpose. *See* 21 CFR 1306.04(a); 21 U.S.C. § 841(a). Respondent thus repeatedly violated federal law. *See Gonzales* v. *Oregon*, 126 S.Ct. at 925; *Moore*, 423 U.S. at 135.

I further reject Respondent's defense of identity theft and her denial of involvement in the scheme. In this regard, I note that an employee of the Avatar pharmacy twice implicated Respondent in the scheme. Moreover, after the TFO spoke with Respondent he was called by Mr. Almeida, who informed the TFO that he was Respondent's co-worker and had been given the TFO's phone number by her. Respondent's act in giving the TFO's phone number to Mr. Almeida begs the question of why she did so if she was not involved in the scheme.

Mr. Almeida admitted to the TFO that he managed a Web site where persons could obtain medications and stated that Respondent reviewed the applications and determined whether to issue the prescriptions. Furthermore, when told by the TFO that Respondent had denied issuing prescription through a Web site, Mr. Almeida stated that she certainly did so. Finally, Mr. Almeida's e-mail to Mr. Saran further implicated Respondent in the scheme. I therefore conclude that there is no merit to Respondent's assertions that she was the victim of identity theft and was not involved in the scheme.

As recognized in *Lockridge* and other agency orders, '' '[le]gally there is absolutely no difference between the sale of an illicit drug on the street and the illicit dispensing of a licit drug by means of a physician's prescription.' '' 71 FR at 77800 (quoting *Mario Avello*, M.D., 70 FR 11695, 11697 (2005)). *See also Floyd A. Santner, M.D.*, 55 FR 37581 (1990). In short, Respondent's involvement in this scheme did not constitute the legitimate practice of medicine, but rather, drug dealing.

Accordingly, Respondent's experience in dispensing controlled substances and her record of compliance with applicable laws makes plain that her continued registration would ''be inconsistent with the public interest.'' 21 U.S.C. 824(a)(4). Moreover, for the same reasons which led me to initially find that Respondent posed ''an imminent danger to the public health or safety,'' *id.* 824(d), I conclude that the public interest requires that her registration be revoked effective immediately. *See* 21 CFR 1316.67.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate Registration, BG2453075, issued to Kamir Garces-Mejias, M.D., be, and it hereby is, revoked. I further order that any pending application of Respondent for renewal of her registration be, and it hereby is, denied. This order is effective immediately.

Dated: September 19, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–19042 Filed 9–26–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 07–18]

David L. Wood, M.D.; Dismissal of Proceeding

On January 24, 2007, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to David L. Wood, M.D. (Respondent), of Castle Rock, Colorado. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, AW6977207, as a practitioner, and the denial of any pending applications for renewal or modification of his registration, on the ground that on October 19, 2006, Respondent had entered into a ''Stipulation and Final Agency Order'' with the Colorado Board of Medical Examiners, which ''limited [his] medical license to administrative medicine only.'' Show Cause Order at 1. The Show Cause Order alleged that as a consequence of the state order, Respondent is ''not authorized to administer, dispense or prescribe controlled substances to any person * * * in the State of Colorado, the State in which [he is] registered with DEA.'' *Id.* The Show Cause Order also alleged that the Colorado Board had found that Respondent prescribed Stadol, a schedule IV controlled substance, to a patient in ''large continuous amounts despite the fact that [he knew] that this patient abused Stadol [obtained] from other'' physicians. *Id.* at 2.

On February 21, 2007, Respondent, through his counsel, requested a hearing on the allegations. The matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner, who proceeded to conduct pre-hearing procedures.

Thereafter, on March 14, 2007, the Government moved for summary disposition on the ground that the Colorado Board's Order prohibited Respondent from engaging in the practice of clinical medicine, and therefore, Respondent was without authority to handle controlled substances in Colorado. *See* Gov. Mot. for Summ. Judgment at 1–2. As support for its motion, the Government attached a copy of the state order, as well as a February 28, 2007 letter from Ms. Cheryl Hara, Program Director for the Colorado Board, to this Agency. *See id.* at attachments. This letter stated that Respondent's ''stipulation precludes him from patient contact, the administration of or interpretation of patient tests, the evaluations of data for the purpose of furthering individual patient care, the performance of any act that requires the exercise of discretion in the prospective authorization of medical care, not including prospective authorization of diagnostic procedures.'' *See id.* at Attachment II, at 1. The letter further explained that because Respondent ''is precluded from treating patients, family members or himself, there is no clinical or legal basis for [him] to prescribe, dispense or administer drugs of any kind and the Board would view any prescribing, dispensing or administering by [him] as a violation of the terms of this stipulation.'' *Id.*

Respondent opposed the Government's motion arguing that the Colorado Board's Order ''does not suspend, revoke or deny [him his] medical license.'' Respondent's Resp. at 3. Respondent further maintained that his ''medical license status is 'Active-With Conditions' and [that he] may apply to the Board for modification of his practice at any time.'' *Id.* Respondent thus contended that the Order does not support a finding that he ''has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the * * * dispensing of controlled substances.'' *Id.* at 2 (quoting 21 U.S.C. 824(a)(3)).

On April 27, 2007, the ALJ granted the Government's motion. Noting that there were no material facts in dispute and that under DEA precedent the ''controlling question * * * is whether the Respondent is currently authorized

to handle controlled substances,'' ALJ Dec. at 3, the ALJ reasoned that if Respondent were to prescribe or dispense a drug, he ''would violate the terms of the [State] Order.'' *Id.* at 4. The ALJ thus concluded that Respondent ''does not have state authority to prescribe or dispense controlled substances, and he is not entitled to maintain his DEA registration.'' *Id.* The ALJ thus recommended that Respondent's registration be revoked. *Id.* at 5.

On June 4, 2007, the ALJ forwarded the record to me for final agency action.[1] At the outset, I note that neither the Show Cause Order nor the record establishes the status of Respondent's registration and whether there is a pending application for renewal. I therefore take official notice of the registration records of this Agency. According to those records, Respondent's registration expired on May 31, 2007, and Respondent did not file a renewal application. I therefore find that Respondent is not currently registered with this Agency.[2]

Under DEA precedent, ''if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke.'' *Ronald J. Riegel*, 63 FR 67132, 67133 (1998). Moreover, while I have recognized a limited exception to this rule in cases which commence with the issuance of an immediate suspension order because of the collateral consequences which may attach with the issuance of such a suspension, *see William R. Lockridge*, 71 FR 77791, 77797 (2006), here, no such order has been issued. Because there is neither an existing registration nor an application to act upon, and there is no suspension order to review, this case is now moot.

[1] On May 25, 2007, Respondent filed exceptions to the ALJ's decision. On the same day, the Government moved to strike the exceptions as out-of-time; on June 1, 2007, the ALJ granted the Government's motion but announced that she would forward Respondent's exceptions and the Government's motion to me with the record. In light of the disposition of this case, I conclude that there is no need to decide any issue related to Respondent's exceptions.

[2] Under the Administrative Procedure Act (APA), an agency ''may take official notice of facts at any stage in a proceeding-even in the final decision.'' U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act 80* (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Respondent is ''entitled on timely request, to an opportunity to show to the contrary.'' 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). Respondent can dispute these facts by filing a properly supported motion for reconsideration within fifteen days of service of this order, which shall begin on the date this order is mailed.

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 the Order to Show Cause be, and it hereby is, dismissed.

Dated: September 19, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–19044 Filed 9–26–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,773]

Gilmour Manufacturing Company, A Subsidiary of Robert Bosch Tool Company, Somerset, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application of August 29, 2007, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on July 31, 2007 and published in the **Federal Register** on August 14, 2007 (72 FR 45451).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, which was filed on behalf of workers at Gilmour Manufacturing Company, a subsidiary of Robert Bosch Tool Corporation, Somerset, Pennsylvania engaged in the production of lawn and garden products, was denied based on the findings that during the relevant time period, the subject company did not separate or threaten to separate a significant number or proportion of workers, as required by Section 222 of the Trade Act of 1974.

In the request for reconsideration, the petitioner states that ''even though there are no layoffs planned, there is a strong possibility'' that the employment at the subject firm will decrease in the future.

The workers of the subject firm were previously certified eligible for TAA (TA–W–57,492). This certification expired on July 18, 2007.

When assessing eligibility for TAA, the Department exclusively considers the relevant employment data (for one year prior to the date of the petition and any imminent layoffs) for the facility where the petitioning worker group was employed. In this case, the employment since the expiration of the previous certification was considered. As employment levels at the subject facility increased during the relevant time period and there was no threat of separations during the relevant period, criterion (1) Has not been met. Significant number or proportion of the workers in a firm or appropriate subdivision means at least three workers in a workforce of fewer than 50 workers, five percent of the workers in a workforce of over 50 workers, or at least 50 workers.

Although further layoffs are anticipated in the future, those layoffs are beyond the relevant period of this investigation. As employment levels at the subject facility did not decline in the relevant period, and the subject firm did not shift production to a foreign country, criteria (a)(2)(A)(I.A), (a)(2)(B)(II.A), (a)(2)(A)(I.B), and (a)(2)(B)(II.B) have not been met.

Should conditions change in the future, the company is encouraged to file a new petition on behalf of the worker group which will encompass an investigative period that will include these changing conditions.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 12th day of September, 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–19028 Filed 9–26–07; 8:45 am]

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