INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–178 (Review) and 731–TA–636–638 (Review)]

Stainless Steel Wire Rod From Brazil, France, India, and Spain

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the countervailing duty and antidumping duty orders on stainless steel wire rod from Brazil, France, India, and Spain.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on stainless steel wire rod from Brazil, France, India, and Spain would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B); a schedule for the reviews will be established and announced at a later date.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–205–3167), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On October 1, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group responses to its notice of institution (64 FR 35697, July 1, 1999) were adequate with respect to all the reviews, and that the respondent interested party group responses were adequate with respect to France, but inadequate with respect to Brazil, India, and Spain. The Commission also found that other circumstances warranted conducting full reviews with respect to Brazil, India, and Spain.[1]

A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: October 8, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–26908 Filed 10–14–99; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–22]

James C. LaJevic, D.M.D.; Revocation of Registration

On June 5, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James C. LaJevic, D.M.D. (Respondent) of Pittsburgh, Pennsylvania, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BL4788064, pursuant to 21 U.S.C. 824(a)(1), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent materially falsified two applications for registration with DEA.

Respondent requested a hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. During prehearing procedures, the issue was framed to include not only the material falsification of applications as a basis for the revocation of Respondent's DEA registration, but also whether Respondent's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 823(f) and 824(a)(4). Following prehearing procedures, a hearing was held in Pittsburgh, Pennsylvania on March 10, 1998, and in Arlington, Virginia on August 18, 1998. At the hearing, both parties called witnesses to testify and the Government introduced documentary evidence. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument.

On May 6, 1999, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's DEA Certificate of Registration be revoked, and any pending applications be denied. On June 18, 1999, Respondent filed exceptions to Judge Bittner's opinion and recommended decision, and on July 9, 1999, the Government filed its response to Respondent's exceptions. Thereafter, on July 15, 1999, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67 hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that Respondent has practiced dentistry in Pittsburgh, Pennsylvania since 1976. While Respondent now lives in Boulder City, Nevada, he still practices dentistry in Pittsburgh approximately seven to ten days per month.

On September 10, 1990, the Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs, State Board of Dentistry (Dental Board) issued an Order suspending Respondent's state dental license for a period of three months commencing on October 12, 1990. The Dental Board's action was based on Respondent's 1988 conviction in the United States District

[1] Commissioner Crawford dissenting.

Court for the Western District of Pennsylvania for income tax evasion.

On April 1, 1991, Respondent submitted an application for the renewal of DEA Certificate of Registration AL6222296, which was initially issued to Respondent in November 1974. Respondent answered ''No'' to the question on the application, hereinafter referred to as the liability question, which asked, ''Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?'' Respondent's registration was renewed.

Effective March 9, 1994, following a formal hearing, the Dental Board issued an Adjudication and Order finding, among other things, that Respondent (1) failed on two occasions to responsibly administer the controlled substance Halcion, (2) failed to keep thorough and adequate records of the administration of controlled substances in his office, (3) failed to take into account the medical condition of his patients when performing dental procedures, (4) failed to provide patients with adequate information regarding treatment and controlled substances, and (5) violated the standards of professional conduct by self-prescribing Hydrodiuril, a hypertensive drug, for twelve years. The Dental Board suspended Respondent's dental license for two years beginning on April 8, 1994, but provided that one year of the suspension was to be active and the remaining year of the suspension was stayed and Respondent was paced on probation. In addition, Respondent was fined $1,000.00.

Upon learning of Respondent's suspension, a DEA investigator sent Respondent a letter dated May 13, 1994, providing Respondent with the opportunity to voluntarily surrender his DEA Certificate of Registration since he was not currently authorized to handle controlled substances in Pennsylvania. DEA did not receive a response to this letter, but the investigator did not pursue further administrative action against Respondent's registration, since the registration expired on March 31, 1994, with no renewal application being submitted.

In February 1996, an agent with the Pennsylvania Office of the Attorney General, Bureau of Narcotics Investigation (BNI), interviewed several local pharmacists to determine whether Respondent was issuing controlled substance prescriptions using his expired DEA registration. One pharmacist told the BNI agent that Respondent frequented his pharmacy and had telephoned prescriptions for his personal use for Valium, and for a cough syrup containing Hycodan, both controlled substances. The pharmacist indicated that when he questioned Respondent about the Valium prescription, Respondent indicated that it was for office use only, and the pharmacist noted ''office'' on the prescription. Respondent testified at the hearing that he never told anyone that any presciption was for ''office use,'' and the Hycodan cough syrup was something that he personally used for a cough.

On March 14, 1996, a search warrant was executed at Respondent's office by state agents. During execution of the warrant, Respondent's DEA Certificate of Registration AL6222296 which expired on March 31, 1994, was found in Respondent's desk drawer. Respondent told the BNI agent that he knew that his previous DEA registration had expired since several pharmacists had informed him of this in February 1996, and that he had recently reapplied for a new Certificate of Registration. Respondent offered no explanation as to why he had failed to renew his previous registration, but he indicated that he continued writing controlled substance prescriptions because his patients needed the medication for pain. Respondent also told the BNI agent that he had assumed that his DEA registration was automatically suspended when his state dental license was suspended and believed that when his state dental license was reinstated, so was his DEA registration. When asked about the prescription for personal and office use, Respondent said that he was not familiar with that pharmacy and never wrote prescriptions for personal use.

During the course of the state investigation, the BNI agent found 60 controlled substance prescriptions issued or authorized by Respondent using his expired DEA registration AL6222296.

After learning from several pharmacists that his previous DEA registration had expired, Respondent submitted an application for a new Certificate of Registration. In early March 1996, the Registration Unit at DEA Headquarters received an application for registration from Respondent that was signed but undated. Again Respondent indicated that he had never had his State professional license or controlled substances registration revoked, suspended, denied, restricted, or placed on probation. In reviewing this application, a registration assistant performed a routine computer database background check but misspelled Respondent's name and as a result no adverse action was noted. As a result, DEA issued Respondent DEA Certificate of Registration BL4788064.

The local DEA investigator was surprised when he learned that Respondent had been granted a registration because he had intended to request an Order to Show Cause seeking to deny any application submitted by Respondent. On August 30, 1996, DEA sent Respondent a letter providing him with an opportunity to surrender his new DEA Certificate of Registration. On September 3, 1996, Respondent called the local DEA office to discuss the August 30, 1996 letter. Respondent was told that DEA planned to take action against his new registration based upon the falsification of his March 1996 application for registration. The DEA investigator testified that in response, Respondent explained that he had mistakenly answered ''No'' to the liability question, believing that the question related only to the suspension or probation of his DEA registration, and not his State licensure. Respondent declined to surrender his registration, which resulted in the Order to Show Cause that initiated these proceedings.

At the hearing in this matter, Respondent testified that he wrote controlled substance prescriptions without a valid DEA registration from March 1995 until February 1996, at which point he was told by a pharmacist that his previous DEA registration was no longer valid. Respondent stated that he had practiced dentistry for over 25 years and had never before forgotten to renew his DEA registration. According to Respondent when his dental license was suspended in 1994, state personnel came to his office and removed the plaque with his dental license which had his DEA registration taped to it. The plaque was returned at the end of the year suspension and he resumed practicing.

Respondent also testified that he did not intentionally falsify his DEA applications. He asserted that he had nothing to gain by falsifying the applications and was confused by the liability question. According to Respondent, he simply misread the question and believed that it only pertained to suspensions based upon controlled substance violations.

The Deputy Administrator, in his discretion, may revoke a DEA Certificate of Registration and deny any applications if the registrant ''has

materially falsified any application filed pursuant to or required by this subchapter * * *.'' 21 U.S.C. 824(a)(1). In addition, the Deputy Administrator may also revoke a DEA Certificate of Registration and deny any pending applications for registration ''if he determines that the issuance of such registration would be inconsistent with the public interest.'' 21 U.S.C. 824(a)(4).

In determining the public interest, the Deputy Administrator is to consider the following factors set forth in 21 U.S.C. 823(f):

(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 16,422 (1989).

First, pursuant to 21 U.S.C. 824(a)(1), a registration may be revoked if the registrant has materially falsified an application for registration. DEA has previously held that in finding that there has been a material falsification of an application, it must be determined that the applicant knew or should have known that the response given to the liability question was false. See, Martha Hernandez, M.D., 62 FR 61,145 (1997), Herbert J. Robinson, M.D., 59 FR 6304 (1994).

It is undisputed that Respondent answered ''No'' to the liability question on both his 1991 renewal application and his 1996 application which asked whether his state medical license had been suspended or placed on probation. Respondent admitted that he knew that his state medical license had been suspended in 1990 and had been suspended and then placed on probation in 1994, but he testified that he did know that his answers to the liability questions were false because the questions were confusing and he thought that the questions only dealt with disciplinary actions relating to the improper handling of controlled substances.

The Deputy Administrator concurs with Judge Bittner's conclusion that Respondent materially falsified his applications of registration. DEA has previously held that it is the registrant's ''responsibility to carefully read the question and to honestly answer all parts of the question.'' See Samuel Arnold, D.D.S., 63 FR 8687 (1998); Martha Hernandez, M.D., 62 FR 61,145 (1997). Therefore, grounds exist to revoke Respondent's registration pursuant to 21 U.S.C. 824(a)(1).

Respondent has consistently argued that he did not intentionally answer the liability questions incorrectly. The Deputy Administrator notes that if evidence existed that indicated that Respondent intentionally falsified his applications, criminal charges could have been brought against Respondent. But as has been previously noted, negligence and carelessness in completing an application for registration could be a sufficient reason to revoke a registration. See Id. Clearly, Respondent was negligent and careless in completing his applications, and Judge Bittner did not find Respondent's explanations persuasive.

In his exceptions to Judge Bittner's opinion, Respondent argued for the first time that he misread the question believing that it asked whether there had ever been any disciplinary action against ''his State professional license for controlled substance registration,'' rather than ''his State professional license or controlled substance registration.'' In its response to Respondent's exceptions, the Government argued that Respondent's ''disingenuous belated argument reinforces (Judge Bittner's) conclusion that Respondent was not candid.'' The Deputy Administrator agrees with the Government. Respondent seems to be grasping for any explanation as to why he falsified his applications for registration. Had this truly been the reason for Respondent's answer to the liability questions, Respondent should have raised this at the hearing rather than for the first time in his exceptions.

Next, the Deputy Administrator must consider whether Respondent's continued registration would be inconsistent with the public interest. As to factor one, it is undisputed that Respondent's dental license was suspended by the state Dental Board in 1990, as suspended and then placed on probation in 1994. The Deputy Administrator notes that some of the reasons for the second suspension related to Respondent's handling of controlled substances in his dental practice. But it is also undisputed that Respondent has had an unrestricted license to handle controlled substances in Pennsylvania since 1996. However, as Judge Bittner stated, ''inasmuch as State licensure is a necessary but not sufficient condition for a DEA registration, * * * this factor is not determinative.''

As to factors two and four, Respondent's experience in handling controlled substances and his compliance with applicable laws relating to controlled substances, the Deputy Administrator has considered these factors together. There is no question that Respondent has practiced dentistry for 25 years. But, it is also undisputed that between April 1, 1994 and March 15, 1996, Respondent issued 60 controlled substance prescriptions using an expired DEA registration, clearly a violation of 21 U.S.C. 843(a)(2). Respondent attempted to justify this conduct by stating that he did not realize that his previous DEA registration had expired until he was so advised by a local pharmacist. But, the Deputy Administrator agrees with Judge Bittner that, ''[t]here is simply no excuse for Respondent's failure to be aware of the status of his DEA registration.'' Respondent knew that his DEA registration needed to be renewed on a regular basis since he had consistently renewed his registration in the past. His failure to do so on this occasion is another example of his negligent and careless behavior. The record also supports a conclusion that Respondent wrote a prescription for diazepam for office use in violation of 21 CFR 1306.04(b).

Regarding factor three, there is no evidence that Respondent has ever been convicted under State or Federal laws relating to controlled substances.

As to factor five, the Deputy Administrator finds that Respondent's inconsistent explanations for the falsification of his 1991 and 1996 applications for registration demonstrate Respondent's lack of candor.

Judge Bittner concluded that Respondent's DEA registration should be revoked based upon the material falsification of his applications and that his continued registration would be inconsistent with the public interest. In his exceptions to Judge Bittner's opinion, Respondent argued that revocation would be too harsh a sanction in light of his ''administrative errors.''

The Deputy Administrator agrees with Judge Bittner. Revocation is warranted in this case. Not only did Respondent materially falsify two applications for registration, but he also authorized 60 controlled substance prescriptions using an expired DEA registration. At the very

least, this lack of attention to detail demonstrates Respondent's negligence and carelessness in his compliance with controlled substance laws and regulations. Therefore, the Deputy Administrator finds that Respondent's DEA Certificate of Registration must be revoked based upon the material falsification of his applications for registration and based upon a finding that Respondent's continued registration would be inconsistent with the public interest.

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 BL4788064, issued to James C. LaJevic, D.M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for registration, be, and they hereby are, denied. This order is effective November 15, 1999.

Dated: October 7, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–27004 Filed 10–14–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98–14]

Bernard C. Musselman, M.D.; Revocation of Registration

On February 10, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Bernard C. Musselman, M.D. of Ogdensburg, New York, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BM5006540, pursuant to 21 U.S.C. 824(a)(1), and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), on the grounds that his continued registration would be inconsistent with the public interest.

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. During prehearing procedures, the cited statutory authority for the proposed action was changed from 21 U.S.C. 824(a)(1) to 21 U.S.C. 824(a)(4). Following prehearing procedures, a hearing was held in Arlington, Virginia on December 9, 1998. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument.

On June 16, 1999, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's DEA Certificate of Registration be revoked, and any pending applications for registration be denied. Neither party filed exceptions to Judge Bittner's opinion and recommended decision, and on July 19, 1999, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67 hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, except as specifically noted below, the Opinion and Recommended Ruling, findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that Respondent entered the United States Navy in 1958 during his senior year in medical school, graduated from medical school in 1959, and then completed a one-year internship. After leaving the Navy in 1963, he practiced general medicine in Ogdensburg, New York for three years, and then completed a two-year residency in pediatrics at the Mayo Clinic. Thereafter, Respondent returned to Ogdensburg and practiced pediatric medicine until he retired in 1990. While in practice in Ogdensburg, Respondent maintained admitting privileges at a local hospital.

Respondent was issued a provisional registration to handle controlled substances, AM3456680, effective May 1, 1971 through January 31, 1972. It is undisputed that Respondent prescribed controlled substances throughout his medical career, but he was not registered with DEA or its predecessor agencies to handle controlled substances from February 1, 1972 until April 11, 1990. According to Respondent, it was his understanding that a physician only needed a Federal narcotics registration if he was dispensing controlled substances. Respondent testified that he never obtained a DEA registration because he only prescribed controlled substances in his pediatric practice, and did not dispense them. Respondent further testified that he never received a notice that he needed to renew his controlled substance registration. According to Respondent, he even consulted with an attorney who was also his Congressman who told Respondent that he only needed a Federal controlled substance registration if he was dispensing controlled substances. Yet it is also undisputed that during at least most of this period Respondent's prescription pads were preprinted with DEA registration number AM3456680.

In 1987, the local hospital was conducting a review of the medical staff's credentials and discovered that it did not have a copy of Respondent's DEA Certificate of Registration on file. In October 1987, the hospital administrator wrote to Respondent requesting a copy of his DEA registration. Respondent replied that he did not need a DEA registration because he only prescribed controlled substances. The hospital staff verified with DEA that Respondent did not have a DEA registration, but through an oversight, no action was taken by the hospital at that time.

In March 1990, the issue of Respondent's DEA registration was raised again at the hospital. Once again, the hospital staff verified with DEA that Respondent did not have a DEA Certificate of Registration and also that AM3456680 was a non-existent DEA number.

At some point, the hospital administrator obtained a copy of a form memorandum that was sent to Respondent by the hospital's director of pharmacy in January 1989 or 1990 asking for Respondent's signature and DEA registration number. Respondent signed the memorandum and listed his DEA registration as AM3456680. Respondent testified that signing the form was ''an error because I didn't know what I was doing. That's my old BND (sic) number that had been on file there for years. I thought that was the number they wanted.''

On March 26, 1990, the hospital administrator sent a memorandum to the hospital's director of pharmacy, with copies to various other hospital personnel including Respondent, advising that effective immediately, Respondent was not able to write any controlled substance prescriptions because he did not have a DEA registration. After learning of the memorandum, Respondent had a discussion with the hospital administrator. Respondent was told that he was not allowed to write orders for controlled substances, and that if he needed to order controlled substances