Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
Methaqualone (2565)	I
Gamma-Hydroxybutyric Acid (2010).	I
Lysergic acid diethylamide (7315)	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (7348).	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2–5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphyenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Tilidine (9750)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Fentanyl (9801)	II
Sufentanil (9740)	II

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and § 952(a) and determined that the registration of Lipomed, Inc. to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Lipomed, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and § 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: September 17, 2007.

Joseph T. Rannazzisi,

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

[FR Doc. E7–18704 Filed 9–20–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated July 24, 2007 and published in the **Federal Register** on July 30, 2007, (72 FR 41527), Wildlife Laboratories, 1401 Duff Drive, Suite 400, Fort Collins, Colorado 80524, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Etorphine Hydrochloride (9059), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Wildlife Laboratories to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Wildlife Laboratories to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: September 17, 2007.

Joseph T. Rannazzisi,

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

[FR Doc. E7–18676 Filed 9–20–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 04–58]

RX Direct Pharmacy, Inc.; Dismissal of Proceeding

On May 17, 2004, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and further ordered the immediate suspension of DEA Certificate of Registration, BR8263876, issued to RX Direct Pharmacy, Inc. (Respondent) of Deerfield Beach, Florida. The Order of Immediate Suspension was based on my preliminary finding that Respondent, ''through its Internet service[,] has been responsible for the diversion of large quantities of controlled substances,'' *Id.* at 9, and that its continued registration during the pendency of the proceeding, ''would constitute an imminent danger to the public health and safety because of the substantial likelihood that [it would] continue to divert controlled substances.'' *Id.* at 10.

The Show Cause Order proposed the revocation of Respondent's registration as a retail pharmacy and to deny any pending applications for renewal or modification of the registration on the ground that Respondent's continued registration would be inconsistent with the public interest. Show Cause Order at 1 (citing 21 U.S.C. 823(f) & 824(a)). More specifically, the Show Cause Order alleged that Respondent's customers would access an affiliated Web site, at which they would complete an on-line questionnaire and list what drugs they were seeking. *Id.* at 5. According to the Show Cause Order, the questionnaires were then submitted to ''affiliated physicians,'' who would review the

questionnaires; if the physician approved the patient's request, the prescription was then forwarded to Respondent to be filled. *Id.*

The Show Cause Order further alleged that on four separate occasions between November 24, 2003, and April 8, 2004, DEA investigators purchased various Schedule IV controlled substances including phentermine, Ambien, and Meridia, all of which were ordered through an Internet site and were filled by Respondent. *Id.* at 6–8. The Show Cause Order generally alleged that prescriptions were based solely on an Internet questionnaire, that the investigator never had any contact with the prescribing physician, and that a pharmacist never contacted the investigators to discuss their prescriptions. *See id.* Relatedly, the Show Cause Order also alleged that between March 22, 2004, and April 13, 2004, Respondent dispensed to a Pennsylvania resident 600 hydrocodone tablets, which were prescribed by a Puerto Rico-based physician. *Id.* at 8.

On June 11, 2004, Respondent timely requested a hearing. The matter was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. At the request of both parties, various stays were entered in the matter.

On October 10, 2006, the Government moved for summary disposition. The basis of the Government's motion was that Respondent's state pharmacy license had expired on February 28, 2005, and that Respondent was now closed. Gov. Mot. For Summary Judgment at 1. The Government thus maintained that because Respondent no longer had authority to handle controlled substances under Florida law, it was not entitled to maintain its DEA registration. *Id.* at 3. Alternatively, the Government argued that Respondent's DEA registration automatically terminated when it closed. *Id.* at 4 (citing 21 CFR 1301.52(a)).

Respondent opposed the Government's motion. Respondent admitted that its state license had expired, that it did not renew the license, and that it had surrendered the license. Resp. Opp. at 3. Respondent also ''acknowledge[d] that under relevant law and precedent, DEA may not register an applicant to handle controlled substances if the applicant lacks authority to handle controlled substances in the state in which it practices.'' *Id.* Respondent asserted, however, that this rule should not be applied to it because of ''the unique circumstances'' wherein it ''surrendered its state pharmacy license after, and based solely on, DEA's Order to Show Cause and Immediate Suspension of [its] DEA registration and where there has been no opportunity for a hearing.'' [1] *Id.* Respondent further contended that it ''surrendered its state license and did not request a hearing * * * based on the fact that DEA's action prevented [it] from operating as a pharmacy in Florida.'' [2] Id. at 4. Respondent thus argued that ''[i]n light of the peculiar circumstances involved in this matter, it would be fundamentally unfair to revoke or terminate Respondent's DEA registration with[out] the opportunity for an administrative hearing.'' *Id.* at 5.

The ALJ did not find Respondent's arguments persuasive. Accordingly, as there were no material facts in dispute, the ALJ granted the Government's motion and forwarded the record to me for final agency action and recommended that I revoke Respondent's registration. ALJ Dec. at 6.

While reviewing this matter, it was determined that Respondent's DEA registration expired on April 30, 2006, nearly six months before the Government moved for summary disposition. Moreover, Respondent did not file a renewal application. Accordingly, I ordered the parties to brief the issue of whether the case had become moot or whether there were collateral consequences that rendered the case a live controversy. *See Ronald J. Riegel*, 63 FR 67132, 67133 (1998) (''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.''); *see also William R. Lockridge*, 71 FR 77791, 77797 (2006) (holding case not moot because of collateral consequences). Subsequently, both parties briefed the issue.

The Government argues that while there are collateral consequences pertaining to the forfeiture of controlled substances that were seized at the time the immediate suspension was served, ''a section 824(f) asset forfeiture is predicated '[u]pon a revocation order becoming final.' '' Gov. Resp. to Briefing Order at 3 (quoting 21 U.S.C. 824(f)). The Government notes that this leads to ''disparate dispositions'' because the controlled substances of an entity whose registration does not expire before the issuance of a final order are subject to forfeiture while a registrant can prevent the Government from obtaining forfeiture under section 824(f) by allowing its registration to expire. *Id.* The Government nonetheless argues that ''affirming an immediate suspension will not trigger the section 824(f) asset forfeiture,'' and that ''[i]f the registrant's registration expires while OTSC proceedings are in progress and the registrant does not submit a renewal application, such a registrant can avoid the consequences of section 824(f).'' *Id.* at 3–4.

Notably, the Government does not argue that the statute is silent on the question of whether forfeiture is triggered when a registrant requests a hearing and then allows its registration to expire before the final order is issued. *Cf. Chevron U.S.A., Inc.*, v. *NRDC*, 467 U.S. 837, 843 (1984) (''[I]f the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.''). Instead, the Government argues that ''these disparate results can be obviated through other asset forfeiture proceedings or through settlements in related civil or criminal proceedings.'' Gov. Resp. at 4. The Government thus concedes that this case is now moot.

Agreeing with the Government's reasoning, Respondent argues that ''§ 824(f) forfeiture proceedings do not apply in a situation where the Respondent's registration expires while the OTSC proceedings are in progress and the registrant does not submit a renewal application.'' Respondent Resp. at 5. According to Respondent, ''[w]ithout a final order by DEA to 'revoke or suspend' the registration, DEA may not use § 824(f) to place such drugs under 'seal' and require the registrant to forfeit the drugs.'' *Id.* Respondent further contends that to ''allow[] the government to permanently forfeit Respondent's property without an opportunity for a full hearing on the merits is unreasonable and contrary to law.'' *Id.* Respondent thus requests that I hold that the matter is moot.

Having considered the record and the parties' positions, I conclude that this case is now moot. Respondent allowed its registration to expire and has not filed a renewal application. Indeed, Respondent has surrendered its state

[1] Respondent further maintained that it was ''financially impossible'' for it ''to maintain its state pharmacy license'' because ''under Florida law,'' it was required to keep its prescription department '' 'open for a minimum of forty (40) hours per week and a minimum of five (5) days per week.' '' *Id.* at 4–5 (quoting Fla. Adm. Code 64B16–28.1018). According to Respondent, it would have maintained its state license ''but for this practical impossibility.'' *Id.* at 5. Respondent also contended that because the Government seized all of its records and equipment, it ''made it difficult, if not impossible, for Respondent to conduct its pharmacy business.'' *Id.* at 2.

[2] In support of its position, Respondent cited my Order in *Oakland Medical Pharmacy*, 71 FR 50,100 (2006). Specifically, Respondent relied on the ALJ's reasoning in that case which I expressly declined to follow.

pharmacy license and closed its business. Moreover, Respondent has not asserted that it plans to re-enter the business of pharmacy at some future date. *See CRJ Pharmacy, Inc., and YPM Total Care Pharmacy, Inc.*, 72 FR 30846 (2007).

Finally, as the Government points out, the United States Attorney has sought forfeiture of ''any property which the defendant used or intended to be used in any manner * * * to commit'' the offenses charged in the indictment which includes the controlled substances previously seized. *See* Indictment, *United States of America* v. *Frank Hernandez, et al.*, at 11 (Case # 07–60027–CR, S.D. Fla.). Because title to the controlled substances will be determined in the pending criminal proceeding, this case does not present any collateral consequence that the issuance of a final order would resolve.[3] Accordingly, this case is now moot.[4]

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 13, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–18512 Filed 9–20–07; 8:45 am]

BILLING CODE 4410–09–P

[3] Respondent also requests that ''DEA authorize [it] to determine whether the controlled substances still in the government's possession may be distributed to an authorized registrant for credit.'' Respondent's Resp. at 5. Respondent's request should be directed to the Federal District Court. *See* 21 U.S.C. 824(f).

[4] In holding this matter moot, I rely solely on the factual circumstances and do not adopt the parties' construction of the statute. Indeed, under that interpretation, even where a hearing has been held on the allegations that supported the immediate suspension order and the seizure of controlled substances, a respondent could see how it had fared in the proceeding and if it determined that it was not likely to prevail, it could then defeat the effect of the proceeding simply by failing to submit a renewal application and allowing its registration to expire. Under the parties' construction, the hearing would have been for naught and the Government would likely be required to relitigate the issues in another proceeding. It is implausible that Congress intended such a result.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment and Recommendations; Mental Health Parity

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and other federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data is provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

By this notice, the Department of Labor's Employee Benefits Security Administration (EBSA) is soliciting comments on the extension of the information collection requests (ICRs) included in the Interim Rules for Mental Health Parity as published in the **Federal Register** on December 22, 1997 (62 FR 66931) (Interim Rules). OMB approved the two separate ICRs under OMB control numbers 1210–0105 and 1210–0106, which expire on January 31, 2008, and October 31, 2008, respectively. Copies of the ICRs may be obtained by contacting the office shown below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section on or before November 20, 2007.

ADDRESSES: Interested parties are invited to submit written comments regarding the ICRs to Mr. Joseph S. Piacentini, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 219–8410. Fax: (202) 219–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this notice is to seek comments from the public prior to submission to OMB for continued approval of two information collection requests included in the Interim Final Rules. The Mental Health Parity Act of 1996 (MHPA) (Pub. L. 104–204) generally requires that group health plans provide parity in the application of dollar limits between mental health and medical/surgical benefits. The statute exempts plans from this requirement if its application results in an increase in the cost under the plan or coverage by at least one percent. The Interim Final Rules under 29 CFR 2590.712(f)(3)(i) and (ii) require a group health plan electing to take advantage of this exemption to provide a written notice to participants and beneficiaries and to the federal government of the plan's election. This notice requirement is approved under OMB control number 1210–0105. To satisfy the requirement to notify the federal government, a group health plan may either send the Department a copy of the summary of material reductions in covered services or benefits sent to participants and beneficiaries, or the plan may use the Department's model notice published in the Interim Final Rule which was developed for this purpose.

The second ICR, approved under OMB control number 1210–0106, is a summary of the information used to calculate the plan's increased costs under the MHPA for purposes of electing the one percent increased cost exemption. The plan is required to make a copy of the summary available to participants and beneficiaries, on request at no charge. Under 29 CFR 2590.712(f)(2), a group health plan wishing to elect the one percent exemption must calculate their increased costs according to certain rules.

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and