

was placed on probation for one year, fined \$2,500.00 and ordered to perform 50 hours of community service.

As to factor four, the Respondent's "[c]ompliance with applicable State, Federal, or local laws relating to controlled substances," the evidence presented at the hearing in this matter clearly supports the conclusion that Respondent committed numerous violations of applicable laws and regulations. Respondent failed to maintain complete and accurate records of its controlled substances as required by 21 U.S.C. 827 and 21 CFR 1304.21, as evidenced by the results of the accountability audit. Respondent failed to conduct a biennial inventory of its controlled substances as required by 21 CFR 1304.13. Pursuant to 21 CFR 1305.13, Respondent was required to preserve all Schedule II order forms. Its inability to account for 18 of its order forms indicates a violation of this regulation.

Respondent's maintenance of records regarding oral prescriptions and prescriptions refills was also deficient. Under 21 CFR 1306.21, a pharmacist may dispense a Schedule III or IV controlled substance pursuant to an oral prescription that is promptly reduced to writing by the pharmacist. The writing must contain all of the information required for a written prescription, including the date of issuance, the name and address of patient, and the name, address, and registration number of the prescribing practitioner. Respondent's oral prescription information failed to include the name and address of both the patient and the practitioner. Respondent's prescription refill records failed to include the date of the refill or verification information by the dispensing pharmacist, in violation of 21 CFR 1306.22(b) (1) and (3).

Respondent violated Section 3719.16 of the Ohio Revised Code and 21 CFR 1306.32 by selling codeine cough syrup on 11 occasions to the same individual more than once within a 48 hour period.

Of considerable concern to the Acting Deputy Administrator is Respondent's violation of 21 CFR 1306.04(a), which provides that:

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription * * *

Accordingly, in situations where a prescription for a controlled substance is issued, both the prescribing

practitioner and the dispensing pharmacist have the responsibility to ensure that the substances are being dispensed for a legitimate medical purpose. In this case, however, there is no prescribing practitioner. Therefore, the dispensing pharmacist bears the sole responsibility for evaluating the purpose and necessity for the dispensing of controlled substances. Mr. Martin himself admits that he ignored his responsibilities and dispensed the Schedule V cough syrups for no legitimate medical purpose. He attempted to justify his behavior by stating that if he did not sell the cough syrup, the customers would just go elsewhere. His only concern was to make money. Based upon these numerous violations of Federal and state laws and regulations relating to the dispensing of controlled substances, factor four is extremely significant in evaluating the public interest in this case.

Like Judge Bittner, the Acting Deputy Administrator notes Mr. Martin's testimony regarding the procedural changes that he has instituted to ensure that Respondent would comply with applicable laws and regulations in the future. However, he has delegated most of the responsibility concerning compliance to a pharmacist at Respondent. As the owner of Respondent, Mr. Martin is ultimately responsible for compliance, and by his own admission, he has not spent much time at Respondent recently.

The Acting Deputy Administrator concludes that regardless of whether Mr. Martin is present at the pharmacy or not, Respondent's continued registration is inconsistent with the public interest. Judge Bittner found that "Mr. Martin displayed a total disregard for federal and State laws and regulations, and for his responsibilities as a licensed pharmacist and owner of a DEA registrant." The Acting Deputy administrator concurs with Judge Bittner's assertion that "Mr. Martin testified that he accepted responsibility for his misconduct and recognized that he used poor judgment; however, his expression of regret was directed more to the consequences to himself of his action—the aggravation and loss of time and money—than to the conduct itself." Mr. Martin turned a blind eye to his duty as a DEA registrant to ensure that controlled substances were dispensed for a legitimate medical purpose. He characterized many of the registration requirements as "nit-picky things." Those requirements are in place to guard against the diversion of controlled substances. To minimize these requirements demonstrates a lack of

appreciation for the responsibilities of a DEA registrant. Consequently, the Acting Deputy administrator concludes that Respondent's continued registration is inconsistent with the public interest.

Accordingly, the Acting 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 BR1448655, issued to Roger Pharmacy, be, and it hereby is revoked and any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective January 9, 1997.

Dated: December 2, 1996.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 96-31253 Filed 12-9-96; 8:45 am]

BILLING CODE 4410-09-M

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

AGENCY: Notice of information collection under review; application for waiver of ground of excludability.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register on August 23, 1996, at 61 FR 43561, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service.

The purpose of this notice is to allow an additional 30 days for public comments until January 9, 1997. This process is conducted in accordance with 5 CFR Part 1320.10.

Written comments and/or suggestions regarding the item contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Office, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395-7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514-1534.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

- (1) 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;
- (2) 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;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

- (1) *Type of Information Collection:* Extension of a currently approved collection.
- (2) *Title of the Form/Collection:* Application for Waiver of Ground of Excludability.
- (3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-601. Office of Examinations, Adjudications Division, Immigration and Naturalization Service.
- (4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on this form will be the Immigration and Naturalization Service (INS) to determine whether the applicant is eligible for a waiver of excludability under section 212 of the Act.
- (5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,000 respondents at 30 minutes (.500) per response.
- (6) *An estimate of the total public burden (in hours) associated with the collection:* 1,500 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: December 3, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96-31203 Filed 12-9-96; 8:45 am]

BILLING CODE 4410-18-M

Immigration and Naturalization Service

Submission for OMB Emergency Review, Comment Request

ACTION: Notice of Information Collection Under Review; Reengineered Foreign Students Pilot Program.

The Department of Justice, Immigration and Naturalization Service has submitted the following information request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The INS was mandated by Congress under Subtitle D, Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to test a prototype of a reengineered Foreign Student and School Program. The statutory time line for implementation of this pilot program mandated by the Attorney General requires an emergency review of this information collection. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Immigration and Naturalization Service, Director, Policy Directives and Instructions Branch, Richard Sloan (202-616-7600). This request for emergency approval, if approved, is good until June 9, 1997. Additionally, this notice will also serve as the 60 day public notification for comments as required by the Paperwork Reduction Act of 1995.

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Immigration and Naturalization Service, Office of Management and Budget, Room 10235, Washington, DC 20530 (202-395-7316).

The Office of Management and Budget is particularly interested in comments which:

- (1) 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;
- (2) Evaluate the accuracy of the agencies/components estimate of the burdens of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Reengineered Foreign Students Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Office of Examinations—Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions, Business or other for-profit. The INS and the United States and Information Agency (USIA) are initiating a pilot project to test a prototype of a reengineered Foreign Student and School Program as mandated under Subtitle D, Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The pilot effort will test an administrative process to use a computer-supported notification and reporting process from schools to the INS regarding foreign students and exchange visitors through the duration of their status in the United States.

(5) *As estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 respondents at 60 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,000 annual hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: December 4, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96-31314 Filed 12-9-96; 8:45 am]

BILLING CODE 4410-18-M