

submitted by Steven J. Watterson, be, and it hereby is, denied. This order is effective June 17, 2002.

Dated: May 6, 2002.

**John B. Brown III,**

*Deputy Administrator.*

[FR Doc. 02-12356 Filed 5-16-02; 8:45 am]

BILLING CODE 4410-04-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **James C. Womack, M.D.; Denial of Application**

On June 4, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to James C. Womack, M.D., notifying him of an opportunity to show cause as to why the DEA should not deny his application for DEA registration, pursuant to 21 U.S.C. 823(f), for reason that Dr. Womack's registration would be inconsistent with the public interest. The OTSC also notified Dr. Womack that should no request for a hearing be filed within 30 days, his right to a hearing would be considered waived.

The OTSC was sent to the address listed on Dr. Womack's application for registration. DEA received a postal return receipt indicating that an individual had signed on behalf of Dr. Womack June 15, 2001. No request for a hearing or any other response was received from Dr. Womack nor anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days having passed since receipt of the OTSC, and (2) no request for a hearing having been received, concludes that Dr. Womack has waived his right to a hearing. Having considered the complete investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds as follows. On November 14, 1985, Dr. Womack was granted a DEA Certificate of Registration as a practitioner in Schedules II through V.

On July 28, 1989, the Texas State Board of Medical Examiners (Board) entered an Agreed Order based on a finding that Dr. Womack was an impaired and recovering physician. The Board suspended his medical license, stayed the suspension, and placed Dr. Womack on probation for ten years, subject to certain terms and conditions. Among the conditions imposed by the

Board was a requirement that Dr. Womack surrender his DEA and Texas State controlled substance registrations. Accordingly, Dr. Womack surrendered his DEA Certificate of Registration on August 31, 1989, as well as his Texas State registration.

Sometime in early 1990, the Board received information that Dr. Womack continued to issue prescriptions for controlled substances using the DEA registration of his father, also a licensed physician in the State of Texas. These prescriptions were not authorized by Dr. Womack's father. Subsequent investigation by DEA revealed that Dr. Womack had issued 701 prescriptions totaling 23,736 dosage units of controlled substances between the time of his surrender of his DEA and Texas State controlled substances registrations and September 5, 1990.

On May 12, 1991, Dr. Womack submitted an application to DEA for registration as a practitioner that was denied. 58 FR 7,248 (1993). On May 9, 1994, Dr. Womack was issued a DEA Certificate of Registration as a practitioner in Schedules II through V.

From February 1997 through January 1999, Dr. Womack was a supervising physician to a physician's assistant at a family practice clinic in Center, Texas, which was approximately 419 miles away from his primary practice in Brandera, Texas. During the time between April 16, 1998, and May 14, 1998, Dr. Womack sought treatment for substance abuse at La Hacienda Treatment Center in Hunt, Texas. During the time of Dr. Womack's treatment, DEA received information that prescriptions for controlled substances were issued and filled under Dr. Womack's DEA registration number. Subsequent information received by DEA indicated that Dr. Womack's physician assistant called in the prescriptions using Dr. Womack's DEA registration number without Dr. Womack's authorization.

On January 6, 1999, Dr. Womack was admitted to the emergency room at a hospital in San Antonio, Texas, and treated for chemical substance toxicity related to his abuse of alcohol and Soma, a non-controlled but addictive substance. On January 18, 1999, Dr. Womack again entered a program for the treatment of substance abuse, in the State of Oregon. As a result, Dr. Womack entered into an Agreed Order with the Board, in which Dr. Womack's medical license was suspended. The Board found, *inter alia*, that Dr. Womack failed to supervise the prescriptive authority of his physician assistant and failed to monitor the clinical responses to narcotic analgesia

prescribed to a patient in September, 1998. On August 28, 1999, the Board denied Dr. Womack's request to stay or lift the suspension based upon Dr. Womack's "history of substance abuse, relapse, and depression."

On February 9, 1999, DEA investigators visited the family practice clinic in Center, Texas, and interviewed Dr. Womack's physician assistant. DEA investigators found three triplicate prescription books, and one triplicate prescription book that contained ten blank pre-signed prescription forms, all in Dr. Womack's name. As a result of the above-described activity, Dr. Womack surrendered his DEA registration on March 16, 1999.

On March 31, 2000, the Board issued an Agreed Order staying the January 29, 1999, suspension of Dr. Womack's medical license, and placed Dr. Womack's medical license on probation for seven years subject to certain terms and conditions.

Pursuant to 21 U.S.C. 823(f), the Administrator may deny an application for a DEA Certificate of Registration if he determined that granting the registration would be inconsistent with the public interest. Section 823(f) requires the following factors be considered in determining the public interest:

- (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 Administrator may rely on any one or 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. Schwartz, Jr., M.D., 54 FR 16,422 (1989).

The Deputy Administrator finds with regard to factor one that, pursuant to the Agreed Order of the Texas State Board of Medical Examiners (Board) effective April 1, 2000, Dr. Womack's medical license was placed on seven year's probation, with extensive terms and conditions. Among the conditions is a requirement that Dr. Womack abstain from the consumption of alcohol, dangerous drugs, or controlled

substances unless prescribed by another physician for a legitimate and documented therapeutic purpose. Other relevant conditions are that Dr. Womack submit to random drug and alcohol screenings, that he attend Alcoholics Anonymous meetings at least four times a week, that he attend weekly meetings of a county or state medical society committee on physician health and rehabilitation, and that he continue to receive care and treatment from a psychiatrist at least once a month. The Deputy Administrator finds these and the other conditions of the Agreed Order to be evidence that the Board finds Dr. Womack could pose a substantial threat to the public health and safety, and further that Dr. Womack poses a significant threat of relapse.

The Deputy Administrator finds with regard to factors two and four that the investigative file reveals Dr. Womack has a history of non-compliance with applicable State and Federal laws relating to handling controlled substances. First, following the surrender of his DEA and Texas State controlled substances registrations, the Board found that Dr. Womack continued to issue prescriptions for controlled substances using the DEA registration of his father, also a licensed physician in the State of Texas, even though these prescriptions were not authorized by Dr. Womack's father. Subsequent investigation by DEA revealed that Dr. Womack had issued 701 prescriptions totaling 23,736 dosage units of controlled substances between the time of his surrender of his DEA and Texas State controlled substances registrations and September 5, 1990, in violation of 21 U.S.C. 843(a)(2) and 21 CFR 1306.03.

Next, while Dr. Womack was acting as a supervising physician to a physician's assistant at a family practice clinic in Center, Texas, approximately 419 miles away from his primary practice in Bandera, Texas, Dr. Womack sought treatment for substance abuse at La Hacienda Treatment Center in Hunt, Texas. During the time of his treatment, DEA received information that prescriptions for controlled substances were issued and filled under Dr. Womack's DEA registration number. Subsequent information received by DEA indicated that Dr. Womack's physician assistant called in the prescriptions using Dr. Womack's DEA registration number without Dr. Womack's authorization. These prescriptions were issued in violation of 21 CFR 1306.03 and 1306.04 as a result of Dr. Womack's failure to adequately monitor and exercise control over his assistant. When DEA investigators visited the family practice clinic in

Center, Texas, to interview the physician's assistant, the investigators found three triplicate prescription books, and one triplicate prescription book that contained ten blank pre-signed prescription forms, all in Dr. Womack's name. As a result, Dr. Womack surrendered his DEA registration on March 16, 1999.

With regard to factor three, the investigative file contains no evidence that Dr. Womack has any record of convictions under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

With regard to factor five, the Deputy Administrator finds that the investigative file reveals substantial evidence that Dr. Womack has, as the Board found in its Agreed Order, a "history of substance abuse, relapse, and depression." The Deputy Administrator finds that insufficient time has passed since the effective date of the Agreed Order to determine whether Dr. Womack has been able to sufficiently overcome his problems so as not to pose a serious threat to the public health and safety. The Deputy Administrator notes that no countervailing evidence was presented, despite the opportunity to do so.

Therefore, for the above-stated reasons, the Deputy Administrator concludes that it would be inconsistent with the public interest to grant Dr. Womack's application at this time.

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 order that the application for a DEA Certificate of Registration submitted by James C. Womack, M.D., be, and it hereby is, denied. This order is effective June 17, 2002.

Dated: May 6, 2002.

**John B. Brown III,**

*Deputy Administrator.*

[FR Doc. 02-12357 Filed 5-16-02; 8:45 am]

**BILLING CODE 4410-09-M**

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review; Comment Request

May 9, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in

accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693-4158 or Email [Howze-Marlene@dol.gov](mailto:Howze-Marlene@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- 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 minimize the 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.
  - 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
  - Minimize the 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.
- Agency:* Employment and Training Administration (ETA).
- Type of Review:* Extension of a currently approved collection.
- Title:* State Alien Labor Certification Activity Report.
- OMB Number:* 1205-0319.
- Affected Public:* State, Local, or Tribal Government.
- Frequency:* Semi-annually.
- Number of Respondents:* 54.