questioned about allegations of her improperly prescribing. During a December 1999 interview with DEA and IDPR investigators, the Respondent admitted that he used fictitious names on prescriptions to acquire controlled drugs and that she abused controlled substances for several years. With respect to the above referenced interview, the Acting Deputy Administrator also finds significant the Respondent's stated willingness to seek treatment for her drug abuse. It appears from the record that the Respondent demonstrated the same openness and resolve in confronting her problems with drug abuse during her testimony at the administrative hearing.

The Acting Deputy Administrator also finds significant the Respondent's participation in inpatient drug treatment and her continued participation in meetings at the Elmhurst Medical Guidance Services. The Respondent has also successfully completed the probationary terms imposed upon her state controlled substance license. There is no evidence in the record of any misuse of controlled substances by the Respondent since 1999, nor is there evidence of any further disciplinary action brought against the Respondent with respect to her handling of controlled substances. It appears from these positive developments that the Respondent has acknowledged her past problems with drug abuse and is willing to take steps to further insure her recovery.

However, given the concerns about the Respondent's past mishandling of controlled substances, a restricted registration is warranted. This will allow the Respondent to demonstrate that she can responsibly handle controlled substances. Accordingly, the Acting Deputy Administrator adopts the following restrictions upon the Respondent's DEA registration as recommended by Judge Bittner:

1. Respondent's controlled substance handling authority shall be limited to the administering and prescribing of controlled substances used in the practice of anesthesiology;

2. Respondent shall not write any prescriptions for herself, and shall not obtain or possess for her use any controlled substance except upon the written prescription of another licensed medical professional. In the event that another licensed medical professional prescribes a controlled substance for the Respondent, Respondent shall immediately notify the Special Agent in Charge of the DEA's nearest office, or his designee; (a) that she is about to obtain a specified controlled substance for her personal use, and (b) the reasons the controlled substance is being prescribed.

3. For at least two years from the date of the entry of a final order in this proceeding, Respondent shall continue to submit to random drug testing under the auspices of the Illinois Department of Professional Regulation or its designee and shall continue to participate in meetings at Elmhurst Medical Guidance Services or in an equivalent program.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the application for DEA Certificate of Registration submitted by Karen A. Kruger, M.D. be, and it hereby is, granted, subject to the above described restrictions. This order is effective March 15, 2004.

Dated: January 20, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–3129 Filed 2–11–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Mark Wade, M.D.; Revocation of Registration

On October 4, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mark Wade, M.D. (Respondent) at his registered location in Memphis, Tennessee. The Order to Show Cause notified the Respondent of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AW1747166, and deny any pending applications for modification or renewal of that registration, pursuant to 21 U.S.C. 824(a)(4) and 823(f), for reason that the Respondent's registration was inconsistent with the public interest.

The Acting Deputy Administrator's review of the investigative file reveals that the Order to Show Cause was received on behalf of the Respondent on October 17, 2002. By letter dated October 28, 2002, the Respondent directed a letter to the Hearing Clerk of the Office of Administrative Law Judges notifying of his desire to waive his right to a hearing in the matter. The Respondent also requested that the DEA Administrator forgo revocation proceedings based on the anticipated surrender of his DEA Certificate of Registration as part of a sentencing proceeding in Federal court scheduled for January 9, 2003. There is however, no information in the investigative file that the Respondent has surrendered his DEA registration.

Therefore, finding that the Respondent has requested the waiver of his right to a hearing and after considering material from the investigative file in this matter, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(e) and 1301.46.

A review of the investigative file reveals that on or about September 19, 1995, the Tennessee Board of Medical Examiners (Tennessee Board) adopted a policy statement titled, ''Management of Prescribing with Emphasis on Addictive and Dependence-Producing Drugs.'' Step One advises: ''First and foremost, before [prescribing any drug], start with a diagnosis which is supported by history and physical findings, and by the results of any appropriate tests'' and ''do a workup sufficient to support a diagnosis including all necessary tests.'' Step Three of the policy statement specifies that ''Before beginning a regimen of controlled drugs, [a determination should be made] through trial or a documented history that non-addictive modalities are not appropriate or they do not work.'' Step Four of the policy statement cautions prescribing physicians to make sure they ''are not dealing with a drug-seeking patient.''

On September 13, 2000, the Tennessee Board adopted a Position Statement titled, ''Prerequisites to Prescribing Drugs In Person, Electronically, Or Over the Internet.'' In its adoption of the position statement, the Board outlined its interpretation of Tennessee Code Annotated, Sections 63–6–214(b)(1), (4), and (12). The Tennessee Board's statement posits in relevant part, that ''it shall be a prima facie violation of T.C.A. 63–6–214(b)(1), (4), and (12) for a physician to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:

(a) Performed an appropriate history and physical examination;

(b) Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and

(c) Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatment options, a part of which might

be the prescription or dispensing drug, with the patient; and

(d) Insured the availability of the physician or coverage for the patient for follow-up care.''

The Acting Deputy Administrator's review of the investigative file reveals that William Stallknecht (Mr. Stallknecht), a pharmacist, was part owner and operator of Pill Box Pharmacy (hereinafter referred to as Pill Box), a drug store concern with two locations in San Antonio, Texas. Included among the business operations of Pill Box was a Web-based pharmacy with an Internet address of ''thepillbox.com,'' as well as a related Web-based physician referral service which operated under a separate Internet address.

DEA's investigation further revealed that following launch of his Internet Web sites, Mr. Stallknecht then contracted with various physicians around the country to conduct customer consultations. A review of the investigative file further reveals that by 1998 or 1999, Pill Box extended its Internet service to controlled substances. Customers reportedly logged on to ''thepillbox.com'' Web site and requested a physician consultation. Customers were then provided questionnaires to complete and could request a physician consultation via e-mail from the linked Web site, PHYSICIAN REFERRAL 2000, or by a direct phone call to Pill Box employee, Brian Hildebrand (Mr. Hildebrand). The customer would then be given a physician's telephone number and instructed to contact the physician at a specific time and date. The patient would telephonically contact the physician who in turn would prescribe controlled substances for the customer after a brief telephonic conversation, usually lasting ten (10) minutes or less. These consultations did not include face-to-face physician-patient interaction, a physical exam or any medical tests. Following these brief consultations, the requested drug(s) would then be dispensed and shipped to the customer by Pill Box.

DEA's investigation further revealed that when a Pill Box contracting physician received a customer questionnaire, he would issue prescriptions, generally for hydrocodone or a brand of hydrocodone, as well as diazepam. In most cases, the Pill Box contracting physician issued 100 dosage units of hydrocodone with three refills, lesser amounts of Valium (with three refills), propoxyphene (both Schedule IV controlled substances), or a similar drug.

The contracting physician would then send the prescriptions by facsimile to the Pill Box location and the pharmacy would dispense the drugs by overnight mail pursuant to the contracting physician's prescription. Payment for the physician consultation, prescription drugs, and shipping costs were all collected by the Pill Box via credit card, money order, cash, or C.O.D. from the customer. DEA's investigation further revealed that Pill Box collected approximately $100.00 in physician consultation fees from each customer and the pharmacy in turn made payments (or rebates as they were also called) to contracting physicians based upon the number of prescriptions authorized by the physician.

The Acting Deputy Administrator finds that the Respondent has been registered as a practitioner with DEA since 1986, and has practiced medicine in California (1986–1988), Louisiana (1988–1992), Florida (1992–1995), and Arizona (1995–1999). The Respondent is currently registered with DEA at a location in Memphis, Tennessee, and is also licensed to practice medicine in that State. At the time of DEA's investigation, the Respondent was a salaried employee at a cardiology practice located in Memphis, where he earned a gross salary of roughly $300,000 per year.

In response to information regarding the possible unlawful distribution of controlled substances by Pill Box, on June 12, 2001, law enforcement officers executed a Federal search of one of the pharmacy's San Antonio locations. Computer records seized from the pharmacy revealed that from January 1, 2000 through June 12, 2001, the Respondent authorized a total of approximately 21,199 prescriptions through Pill Box's Internet referral operation. Approximately 14,029 of those prescriptions were for brand name Schedule III controlled substances, including, Lorcet, Lortab, Vicodin and Zydone, as well as generic hydrocodone products. Approximately 1,113 of those prescriptions were for Valium.

In furtherance of its investigations of Pill Box and the Respondent, on September 12, 2001, the Respondent was interviewed in San Antonio, Texas by a representative of the United States Attorney's Office, agents from the Criminal Investigation Unit of the Internal Revenue Service (IRS) and DEA Diversion Investigators. During the course of the interview, the Respondent disclosed that in 1999, he, along with his family (wife and child) moved from Phoenix, Arizona to Memphis, Tennessee. The Respondent stated that the move was prompted in part by an unsuccessful and financially strapped medical practice group in Phoenix (that later went bankrupt), and the Respondent's desire to improve the financial situation of he and his family. DEA's investigation revealed that at the time the Respondent moved to Memphis, he was in debt to the IRS for about $131,000, and he had also incurred substantial credit card debt.

The Respondent further disclosed that in or around September or October of 1999, he found the Pill Box Web site and his attention was drawn to the pharmacy's solicitation of physicians to conduct consultations for customers. The Respondent subsequently responded to the request, and a few months later, he was contacted by Mr. Hildebrand concerning customer consultations for Pill Box. Following a discussion regarding the pharmacy's consultation procedure, the Respondent decided to join Pill Box as a consulting physician.

The Respondent further disclosed during the September 12, 2002, interview with law enforcement personnel that he saw his association with Pill Box as a ''moonlighting'' opportunity, and that he hoped thereby to be able to pay off the indebtedness he had incurred. Although he indicated his then understanding that the practice was legal, DEA's investigation revealed that the Respondent nevertheless did not consult with anyone, including the Tennessee Medical Board, with questions about the legality of Internet consultations or prescribing for Internet-based pharmacies.

Sometime within the first week of January, 2000, the Respondent conducted his first telephone consultation on behalf of Pill Box. The consultations were carried out at his residence, where Respondent had a separate telephone line installed for that purpose. The Respondent typically conducted consultations during the evenings after working during the day at his cardiology practice. Shortly thereafter, the Respondent began issuing prescriptions for controlled substances to Internet customers.

During the September 12, 2002, interview, the Respondent admitted being aware that a high percentage of the prescriptions he authorized were for hydrocodone products, but added however, that the people for whom the prescriptions were issued were ''between doctors or insurance'', and he thought that they had a genuine need for these drugs. The Respondent further added that he turned down a number of people he thought were ''bogus.''

The Respondent further disclosed to law enforcement personnel that he first

became aware of possible ''problems'' in the operation of Pill Box in early 2001: He recalled hearing from Mr. Hildebrand that another Internet referring physician for Pill Box was being investigated. The investigative file however does not disclose the source of the purported investigation. The Respondent also voiced concerns that stemmed from complaints that he received from customers who stated that they had not received the drugs he had prescribed and his suspicion that Mr. Hildebrand was using Respondent's name for other prescriptions not authorized by the Respondent. The Respondent informed law enforcement personnel that he terminated his relationship with Pill Box on February 5, 2001.

The Respondent further divulged that following the termination of his business relationship with Pill Box, he went on to perform paid consultations for three other Web-based pharmacies located in Florida, Oklahoma, and Alabama. Each of the referenced pharmacies, like Pill Box, facilitated the purchase of various drugs over the Internet by visitors to their respective Web sites. With respect to the Oklahoma-based Internet site, the Respondent told law enforcement authorities that the pharmacist at that location agreed to accept faxed prescriptions from the Respondent. However the arrangement was discontinued in March 2001, when the Respondent was informed by the pharmacist that the latter was under investigation.

DEA's investigation further revealed that the Respondent did not perform an examination of any of the patients to whom he authorized controlled substances through Pill Box, or any of the other online pharmacies for which he provided consultations. Conversely, the Respondent stated during his September 2001 interview with law enforcement personnel that he typically spent thirty to forty-five minutes with a new patient in his cardiology practice, excluding time spent by office personnel taking a patient's weight, blood pressure, and pulse. The Respondent added that a typical visit with an established cardiology patient would be fifteen to twenty minutes. The Respondent further contrasted his practice of cardiology with Internet prescribing in that the services he provided to the internet customers was meant only to be an interim measure.

The Respondent further informed law personnel that he once told Mr. Hildebrand that he did not want consultations scheduled with customers from Memphis, Tennessee because the Internet practice would be in conflict with the Respondent's regular medical practice. The Respondent further requested that Mr. Hildebrand not schedule the Respondent's consultations with any customers in the State of Tennessee so as to reduce his chance of ''getting into trouble'' with the state's medical board.

The investigative file further reveals that in or around May 2000, the Respondent was notified by an investigator for the Illinois Medical Board that it was illegal for the Respondent to prescribe drugs to patients in Illinois since the Respondent was not licensed to practice medicine there. The Respondent later sent a letter to the Illinois Medical Board stating that he would refrain from prescribing to patients in that State. The investigative file further reveals that the Respondent was informed by Mr. Hildebrand that other States such as Kansas were ''cracking down,'' apparently on Internet-based prescribing practices. As a result, the Respondent included Kansas as a State from which he would not accept customer consultations on behalf of online pharmacies.

On March 25, 2002, DEA's San Antonio District Office received a written complaint statement and other documents regarding the Respondent and Pill Box Pharmacy from ''NH'', an individual apparently recovering from drug addiction. NHG informed DEA that she and her daughter, ''AB'' had obtained via the Internet and telephonic consultations, controlled substances (specifically Lortab) from the Respondent and other Pill Box contracting physicians. NH further divulged that appointments for physician consultations were arranged by Mr. Hildebrand and prescriptions were then dispensed by Pill Box. With respect to repayment arrangements for requested medications, NH wrote: ''In the beginning[,] you could use Visa, MasterCard, etc., but later patients were told that this created a paper trail, therefore [Mr. Hildebrand] could no longer accept anything but money orders.'' DEA received further information that NH and AB have since undergone a drug rehabilitation program after becoming addicted to the controlled substances, including those received from Pill Box.

By letter dated December 20, 2001, the DEA San Antonio District Office was informed by ''NB'' that her son ''PB'' had received more than 100 dosage units of hydrocodone (Lortab) with two refills from a prescription authorized by ''Dr. William Dale'', and the prescriptions were filled by Pill Box. At the time PB received the prescription in question, he resided in Birmingham, Alabama. There is no information in the investigative file that the Respondent was either licensed to practice medicine in Alabama or treated patients from that State. The letter of NB went on to generally describe PB's resulting drug addiction requiring hospitalization in an intensive care unit, and subsequent care at a mental care facility. The letter further disclosed that controlled substances received by PB eventually led to his overdose of the drugs, and NB described PB as having ''damaged brain cells'' and an ''uncertain prognosis.'' A review of prescription information obtained by DEA from Pill Box revealed that on three separate occasions from January to March 2001, the Respondent authorized prescriptions for PB, each for 100 tablets of Lortab. These controlled substances were subsequently delivered to PB by Pill Box.

The investigative file contains several additional instances where individuals contacted DEA regarding difficulties they experienced (*i.e.,* drug abuse, dependency and addition) after obtaining controlled substances authorized by the Respondent, and other Internet referring physicians affiliated with Pill Box.

The Acting Deputy Administrator's review of the investigative file further reveals a copy of a plea agreement listing the Respondent as a defendant in a criminal action before the United States District Court for the Western District of Texas. The plea agreement, which was signed by the Respondent on October 4, 2002, set forth certain stipulations of fact agreed upon by the parties, including findings that in 2000, the Respondent began prescribing controlled substances for Pill Box' Internet referral customers, who lived throughout the continental United States and abroad, with ''no face-to-face contact with these customers''; and, that in the course of a conspiracy with Pill Box and William Stallknecht, and in relation to illegal prescriptions which were filled by the pharmacy, the Respondent received a sum in excess of $27,858.30 which constituted proceeds of the illegal dispensing of 42,750 dosages units of diazepam.

The plea agreement further referenced the Respondent's agreement to waive indictment, and plead guilty to a charge set forth in a criminal information, specifically, conspiracy to dispense Schedule IV controlled substances in violation of 21 U.S.C., sections 846, 841(a)(1) and 841(b)(1)(D)(2). The Respondent also agreed to forfeit and surrender is DEA Certificate of Registration at the time of sentencing on the above referenced charge. However,

there is no information in the investigative file regarding the imposition of any sentence upon the Respondent.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Acting Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending application for renewal of such registration, if she determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that 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 or safety.

These factors are to be considered in the disjunctive; the Acting Deputy Administrator may rely on one or a combination of factors and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See Henry J. Schwartz, Jr., M.D.,* 54 FR 16422 (1989).

In this case, the Acting Deputy Administrator finds factors two, three, four and five relevant to a determination of whether the Respondent's continued registration remains consistent with the public interest.

With regard to factor one, the recommendation of the appropriate State licensing board or professional disciplinary authority, there is no evidence in the investigative file that the Respondent has been the subject of a State disciplinary proceeding, nor is there evidence demonstrating that Respondent's medical license or State controlled substance authority are currently restricted in any form. Nevertheless, State licensure is a necessary, but no sufficient condition for registration, and therefore, this factor is not dispositive. *See e.g., Wesley G. Harline, M.D.,* 65 FR 5665 (2000) *James C. LaJevic, D.M.D.,* 64 FR 55962 (1999).

With regard to factors two and four, the Acting Deputy Administrator finds that the primary conduct at issue in this proceeding (*i.e.,* the unlawful authorization of controlled substance prescriptions for use by Internet customers) relates to both the Respondent's experience in dispensing controlled substances, as well as his compliance with applicable State, Federal, or local laws relating to controlled substances. Therefore, the Acting Deputy Administrator combines these factors under 21 u.S.C. 823(f)(2) and (4). *See, Service Pharmacy, Inc.,* 61 FR 10791, 10795 (1996).

A DEA registration authorizes a physician to prescribe or dispense controlled substances only within the usual course of his or her professional practice. For a prescription to have been issued within the course of a practitioner's professional practice, it must have been written for a legitimate medical purpose within the context of a valid physician-patient relationship. *Paul J. Caragine, Jr.,* 63 FR 51592, 51600 (1998). Legally, 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. *See Floyd A. Santner, M.D.,* 55 FR 37581 (1990).

Factors two and four are relevant to the Respondent's authorization of more than 14,000 prescriptions for Schedule III and IV controlled substances from January 1, 2000 through June 12, 2001. The Acting Deputy Administrator concludes from a review of the recor4d that the Respondent did not establish a valid physician-patient relationship with internet customers to whom he prescribed controlled substances. *See, Abel J. Sands, M.D.,* 59 FR 781 (1994). DEA has previously found that prescriptions issued through a pharmacy Internet Web site are not considered as having been issued in the usual course of medical practice, in violation of 21 CFR 1306.04. *Rick Joe Nelson,* 66 FR 30752 (2001). The Acting Deputy Administrator also finds that the Respondent's actions in this regard were not in compliance with State law as his issuance of controlled substance prescriptions to internet customers violated Tennessee State law. T.C.A. 63–6–214(b)(1), (4) and (12).

In the instant case, the Respondent conducted scant consultations (some lasting as little as five minutes) on behalf of a pharmacy that offered access to controlled substances over the Internet. These prescriptions were authorized without the benefit of face-to-face physician-patient contact, physical exam or medical test. There is no information in the investigative file demonstrating that the Respondent even took the time corroborate responses to questionnaires that were submitted by Pill Box's customers. Most, if not all of these customers were outside of the area where the Respondent's primary medical practice was located. Here, it is clear that the issuance of controlled substance prescriptions to persons whom the prescribing physician has not established a valid physician-patient relationship is a radical departure from the normal course of professional practice.

With regard to factor three, applicant's conviction record under Federal or State laws relating to the dispensing of controlled substances, the record reveals that the Respondent has been convicted of a felony related to controlled substances. On October 4, 2002, the Respondent entered into a plea agreement on a Federal charge of conspiracy to dispense Schedule IV controlled substances in violation of 21 U.S.C. 846, 841(a)(1) and 841(b)(1)(D)(2). DEA has previously held that guilty pleas to charges related to unlawful handling of controlled substances are applicable to a finding under factor three. *Trudy J. Nelson, M.D.,* 66 FR 52941 (2001); *John C. Turley, III, M.D.,* 62 FR 14948 (1997); *Yu-To Hsu, M.D.,* 62 FR 12840 (1997).

Regarding factor five, such other conduct which may threaten the public health or safety, the Acting Deputy Administrator finds this factor relevant to the Respondent's continued prescribing to Internet customers, at a time when the Tennessee Medical Board adopted a policy statement and a position statement designed to assist licensed practitioners in the proper prescribing of dangerous controlled drugs. Ironically, the Respondent is currently licensed to practice medicine in a jurisdiction which sought to specifically address the proper procedures for the issuance of prescriptions through electronic means (*i.e.,* via the Internet). While the record is unclear as to whether the Tennessee Board's position statements on proper prescribing practices were ever disseminated to the State's licensed physicians, the Respondent demonstrated clearly that he possessed some knowledge of the possible unlawful nature of his conduct, as evidenced by his statements to law enforcement authorities of his desire to avoid legal entanglements with the Tennessee Board. Factor five is further relevant to the Respondent's continued authorization of prescriptions for Internet customers even while receiving warnings from authorities in Illinois and Kansas that the practice may be subject to restriction in those jurisdictions. Factor five is also relevant to Respondent's continued Internet consultations despite receiving information that another Pill Box consulting physician as well as a

pharmacist in Oklahoma were under investigation for participating in Internet drug distribution ventures. Despite the Respondent's demonstrated awareness of the legal prohibitions surrounding his prescribing on behalf of online pharmacies, there is no evidence in the record that he ever sought guidance from the Tennessee Board or from any law enforcement entity regarding the appropriateness of such prescribing.

The Acting Deputy Administrator is deeply concerned about the increased risk of diversion which accompanies Internet controlled substance transactions. Given the nascent practice of cyber-distribution of controlled drugs to faceless individuals, where interaction between individuals is limited to information on a computer screen or credit card, it is virtually impossible to insure that these highly addictive, and sometimes dangerous products will reach the intended recipient, and if so, whether the person purchasing these products has an actual need for them. It is against this backdrop that the Acting Deputy Administrator finds factor five relevant to complaints received by the Respondent that Pill Box customers had not received drugs that he authorized, and relevant to information received by the Respondent that a Pill Box employee may have used the Respondent's name for prescriptions not authorized.

Factor five is further relevant to the Respondent's apparent role in exacerbating drug abuse and addition on the part of customers that received controlled substances through Internet consultations. As noted above, DEA received letters on behalf of individuals who became severely impaired by controlled substances authorized by the Respondent and distributed by Pill Box. The ramifications of obtaining dangerous and highly addictive drugs with the ease of logging on to a computer and the use of a credit card are disturbing and immense, particularly when one considers the growing problem of the abuse of prescription drugs in the United States.

In a 2001 report, the National Clearinghouse for Alcohol and Drug Information estimated that 4 million Americans ages 12 and older had acknowledged misusing prescription drugs. That accounts for 2% to 4% of the population—a rate of abuse that has quadrupled since 1980. Prescription drug abuse—typically of painkillers, sedatives and mood-altering drugs—accounts for one-third of all illicit drug use in the United States. *Article by Melissa Healy, The Los Angeles Times, December 1, 2003.*

The Acting Deputy Administrator finds that with respect to Internet transactions involving controlled substances, the horrific untold stories of drug abuse, addiction and treatment are the unintended, but foreseeable consequence of providing highly addictive drugs to the public without oversight. The closed system of distribution, brought about by the enactment of the Controlled Substances Act, is completely compromised when individuals can easily acquire controlled substances without regard to age or health status. Such lack of oversight describes Pill Box's practice of distributing controlled substances to indistinct Internet customers, and the Respondent's authorization of those drugs on behalf of the pharmacy. Therefore, the Respondent's actions in contributing to the abuse of controlled substances by customers of Pill Box is relevant under factor five and further supports the revocation of his DEA Certificate of Registration.

Factor five is further relevant to the Respondent's participation in pharmacy Internet business ventures after terminating his business relationship with Pill Box. As noted above, the Respondent demonstrated some knowledge that his prescribing on behalf of Internet pharmacies was unlawful. Nevertheless, following the termination of his business relationship with Pill Box, the Respondent actively sought to associate himself with other similar ventures, and admitted to providing consultations to Internet referral customers on behalf of online pharmacies in Florida, Oklahoma and Alabama.

It appears that the Respondent's actions in this regard were motivated purely by profit. In his selfish pursuit of financial gain, the Respondent demonstrated a cavalier disregard for controlled substance laws and regulations and a disturbing indifference to the health and safety of customers who purchased dangerous drugs through the Internet. Such demonstrated lack of character and adherence to the responsibilities inherent in a DEA registration show in no uncertain terms that the Respondent's continued registration with DEA would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AW174166, previously issued to Mark Wade, M.D., be, and it hereby is, revoked. This order is effective March 15, 2004.

Dated: January 20, 2004.

Michelle M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–3127 Filed 2–11–04; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL INDIAN GAMING COMMISSION

Notice of Intent To Prepare an Environmental Impact Statement and of a Scoping Meeting for the Federated Indians of Graton Rancheria Casino and Hotel Project, Sonoma County, CA

AGENCY: National Indian Gaming Commission.

ACTION: Notice of intent.

SUMMARY: The notice advises the public that the National Indian Gaming Commission (NIGC), in cooperation with the Federated Indians of Graton Rancheria and the Bureau of Indian Affairs (BIA), intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for a proposed casino project to be located in Sonoma County, California. The purpose of the proposed action is to help address the socio-economic needs of the Federated Indians of Graton Rancheria. Details of the proposed action and location are provided below in the Supplemental Information section. The scoping process will include notifying the general public and federal, state, local, and tribal agencies of the proposed action. This notice also announces a public scoping meeting that will be held for the proposed action. The purpose of scoping is to identify public and agency concerns, and alternatives to be considered in the EIS.

DATES: Written comments on the scope of the EIS should arrive by April 1, 2004. The public hearing will be held on March 10, 2004, from 7 p.m. to 9 p.m., or until the last public comment is received.

ADDRESSES: Written comments on the scope of the EIS should be addressed to: Christine Nagle, NEPA Coordinator, National Indian Gaming Commission, 1441 L Street, NW., 9th Floor, Washington, DC 20005, telephone (202) 632–7003. Please include your name, return address, and the caption: ''DEIS Scoping Comments, Graton Rancheria Casino Project'', on the first page of your written comments.

The public hearing will be co-hosted by the NIGC, BIA, and the Federated Indians of Graton Rancheria. The