

MediCenter found out that their names had been used on prescriptions that they had not issued, became upset about it.

From October 13, 1998, through the middle of the year 2000, HRB investigators conducted interviews of past and present employees of the MediCenter, including nine physicians. The physicians interviewed were shown pharmacy printouts and original prescriptions for controlled substances purportedly issued in their names for Respondent and his wife. The physicians were asked to review and verify the prescriptions in question. All but two of the physicians confirmed that they had not authorized the prescriptions attributed to them. One physician was unsure whether he had authorized the prescriptions. One of the physicians told the investigator that when he later confronted Respondent about the prescriptions issued in his name (to which Respondent admitted), the Respondent replied "that's what partners do."

One physician, Dr. Underwood, confirmed that he had approved a prescription for Respondent's wife. The doctor explained that he issued a prescription for Lorcet, a Schedule III controlled substance, to Respondent's wife, because Respondent had told him that his wife was experiencing painful periods. The physician admitted, however, that he had never seen Respondent's wife.

In a later interview, Dr. Underwood further explained that on or about February 5, 1999, he received a telephone call from the Respondent and was advised that the Respondent had called in another prescription for his wife, apparently using Dr. Underwood's name and DEA registration number. In a February 17, 1999, written statement, Dr. Underwood stated: "Without my knowledge or permission, neither express or implied, [Respondent] apparently, called in a prescription of a pain medicine, as well as, anaprox ds and a sedative for insomnia using my name and DEA number * * * [h]e did not tell me the date that he called in the prescription, nor the pharmacy that he called."

At the hearing, Respondent denied that he had ever called in a prescription using another doctor's name without first obtaining the physician's permission. He contended that he, or one of his employees, had asked the doctors to call in the prescriptions for him, and that this was run of the mill practice at the clinic. Respondent claimed that the doctors must have forgotten to annotate the patient charts,

and were now lying to protect themselves.

The Government also presented the testimony of DEA Diversion Investigator (D/I) Rhonda Phillips. Investigator Phillips has been a Diversion Investigator with the DEA Nashville Office for fourteen years. She testified that Respondent came to the attention of DEA in 1999, when the HRB requested assistance in its investigation of Respondent. In the course of its investigation, DEA received a copy of a report prepared by the Federal Bureau of Investigation (FBI). The initial target of the FBI investigation was a chiropractor, however, Dr. Underwood was interviewed as part of that investigation. Dr. Underwood stated in the report that Respondent posed as him in calling in a Vicodin prescription for Respondent's wife around January 1999. According to Dr. Underwood, Respondent apparently became concerned about being caught, and told Dr. Underwood, in effect, that "We have to do something." Respondent then requested that Dr. Underwood postdate a patient chart for his wife to make it appear that the earlier prescription was medically necessary. Dr. Underwood refused to take such action. At the hearing, Respondent denied asking Dr. Underwood to cover up the prescription, claiming that Dr. Underwood was lying in order to protect himself.

There was also evidence that Respondent issued prescriptions in his own name for his own use. On March 22, 2001, DEA personnel interviewed Clark M. Kent, former registered pharmacist for Drugs For Less #2121 in Halls, Tennessee. Mr. Kent stated that Respondent would come into the pharmacy and write hydrocodone prescriptions in the names of other individuals and take the controlled substances with him. Mr. Kent further recalled a conversation where Respondent asked Mr. Kent if he would fill a call-in prescription that was issued under Dr. O'Shaughnessy's name. Mr. Kent stated that he declined Respondent's request because it violated federal and state regulations. Mr. Kent also informed investigators that Respondent called in a prescription for Demerol syrup for the latter's son. Mr. Kent found the prescription unusual since that type of medication was not ordinary for a young individual. During the hearing, Respondent denied that he had called in a prescription for Demerol syrup for his son.

The Government also presented evidence concerning Respondent's issuance of controlled substance prescriptions after his DEA registration

expired in July 1998. In the Agreed Order, Respondent agreed that he had issued prescriptions for controlled substances after the expiration of his DEA registration.

At the hearing, Respondent admitted that he had issued prescriptions for controlled substances after his DEA registration had expired, blaming it on his own negligence. He claimed that he wrote the prescriptions not realizing that his registration had expired. The Government presented evidence, however, that Respondent continued to issue several prescriptions for controlled substances after he learned of the expiration of his registration. The evidence showed that Respondent learned about the expiration of his registration in late 1998. Respondent testified that he stopped writing prescriptions after he learned of the expiration of his DEA registration and instructed his staff not to refill or call in any prescriptions using his name. Nevertheless, Investigator Cheaves obtained a prescription profile from the Medicine Shoppe in Knoxville, Tennessee showing that on January 7, 1999, after Respondent learned that his DEA registration had expired, a prescription for Valium was filled for patient Hugh Ray Wilson under Respondent's expired DEA registration number, and two prescriptions for Ambien for Mr. Wilson were refilled under that registration number on January 26 and April 7, 1999.

On January 23, 1999, a prescription was filed for Clorazepate Dipotassium (a Schedule IV controlled substance); on February 10, 1999, a prescription was filled for Guaituss DAC Syrup (a Schedule V controlled substance); on May 26, 2000,¹ a prescription was filled for Lomitil liquid (diphenoxylate hydrochloride and atropine sulfate (a Schedule V controlled substance). With respect to the Lomitil prescription, Respondent admitted calling it in, but added that he didn't know the drug was a controlled substance. Respondent later added that someone from his staff may have called in the prescription.

Based upon the above, the Acting Deputy Administrator finds that Respondent diverted substantial amounts of Demerol for his own use; failed to comply with DEA regulations to account for controlled substances at his place of business; called in or caused to be called in controlled substance prescriptions for himself and his wife using other physicians' names; and negligently issued prescriptions for

¹ This prescription was also authorized following Respondent's submission of his January 3, 2000 application for DEA registration.