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DEA Investigation of Express Scripts Drug Diversion, Regulatory Violations Leads to $2.75 Million Settlement

May 17 (Philadelphia, PA) - Express Scripts, Inc. and Express Scripts Pharmacy Services, Inc. ("ESI") today agreed to pay to the government $2.75 million to settle the case against the companies. DEA Philadelphia Diversion Group 1 inspected company locations in Pennsylvania and discovered numerous instances of drug diversion and regulatory violations. The settlement covers conduct from 2002 through 2009. The matter was handled by the US Attorney’s Office for the Eastern District of Pennsylvania.

One of DEA's missions under the Controlled Substances Act is to authorize pharmacies and physicians (DEA registrants) to prescribe and dispense prescription controlled substances after a treating physician issues a legitimate prescription. DEA issues to each registrant a unique registration number; DEA also inspects the registrants to assure compliance with the federal regulations. During inspections, DEA reviews security practices in place to prevent the diversion of prescription controlled substances that are subject to abuse.

The ESI inspection revealed that from 2002 through 2006, prescription controlled substances were diverted into illicit channels at several ESI mail order facilities, including facilities located in Bensalem, PA and Harrisburg, PA. The diversion included thefts by ESI employees, as well as inventory discrepancies and failures to report to DEA losses that occurred during the mail order delivery process.

Vito S. Guarino, Acting Special Agent in Charge of the DEA Philadelphia Division stated, “The DEA regulatory inspection that led to this settlement involved many hours of tedious work by seasoned DEA Diversion Investigators. Their efforts revealed the diversion that was going on within this extremely large company. The diversion and abuse of prescription controlled substances poses a serious and growing threat to our communities and nation. DEA will continue to aggressively inspect and monitor pharmacies to detect the diversion of prescription controlled substances. This agreement establishes a compliance model for other pharmacies that are found not in compliance with the required federal regulations.”

When filling a prescription, a pharmacist must use the prescribing physician’s DEA-issued registration number. From 2004 through 2009, ESI employees generated invalid DEA numbers in ESI’s computerized prescription-processing system when the doctor’s DEA-issued registration number was unknown or unavailable. Once a fictitious number was generated within the system at its mail order facilities, ESI could proceed with filling the prescription. This practice could result in the dispensing of prescriptions for controlled substances doctors did not legitimately prescribe.

Under the agreement ESI will implement measures that will assist it in complying with DEA-enforced regulations, including improved physical security, enhanced inventory controls, audits, employee background checks, and mandatory training for employees on the processing and handling of prescription controlled substances. In addition, ESI will implement procedures that will prevent employees from creating and using fictitious DEA registration numbers.

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