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Justice Department Files Lawsuit Against Creve Coeur, MO., Pharmacists For Controlled Substances Act Violations

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ST. LOUIS – In a complaint filed February 23, 2021, by the U.S. Attorney’s Office for the Eastern District of Missouri, the government alleges Elizabeth Dembo unlawfully dispensed controlled substances to patients during her time as the pharmacist-in-charge of Olive Street Pharmacy, LLC. The retail pharmacy is located in the 10000 block of Old Olive Street Road, in Creve Coeur, Missouri. Dembo repeatedly filled prescriptions while disregarding ample warning signs of diversion, or “red flags,” indicating the prescriptions were not legitimate.

The complaint accuses Dembo of routinely filling prescriptions for Subsys, an oral fentanyl spray, which is subject to heightened FDA restrictions and indicated only for opioid-tolerant patients experiencing breakthrough pain due to cancer. The complaint states Dembo dispensed high dosages of Subsys to patients despite knowing they did not qualify for the drug. The complaint also states the vast majority of the Subsys Dembo dispensed was prescribed by Philip Dean, a Warrenton, Missouri neurologist who pleaded guilty to illegally distributing prescription opioids in 2018, including to women with whom he had lived and with whom he had had personal relationships. The complaint alleges Dembo knew Dean was having intimate relationships with at least one of the women for whom he was prescribing controlled substances, but nonetheless continued to dispense Dean’s controlled substance prescriptions to her and others.

Other red flags described in the complaint include clear instances of tampering with written prescriptions; dangerous combinations of drugs commonly sought after for recreational purposes; and amounts of opioids that exceeded CDC guidance by as much as 17.5 times the recommended maximum daily dosage. Despite these warning signs, the complaint alleges, Dembo continuously dispensed prescriptions she knew or should have known had no medical purpose.

The complaint states this unlawful conduct resulted in numerous violations of the Controlled Substances Act (CSA), and—when the prescriptions were submitted to Medicaid or Medicare for reimbursement—violations of the False Claims Act (FCA). The United States seeks civil penalties under the CSA, as well as treble damages and penalties under the FCA.

If Dembo is found liable for violating the CSA, she could face civil penalties of up to \$67,627 for each unlawful prescription filled. If she is found liable for violating the FCA, she could face treble damages for fraudulent prescriptions billed to Medicaid and Medicare, as well as penalties from \$11,665 and up to \$23,331 per fraudulent prescription.

“As we continue to battle a national health emergency involving opioid abuse, we rely heavily upon pharmacists to do their part in ensuring prescriptions for controlled substances are filled and dispensed for legitimate medical purposes,” said Inez Davis, Diversion Program Manager of the Drug Enforcement Administration St. Louis Division. “Now more than ever, due diligence on the part of the entire medical community is needed to ensure prescription opioid medications are prescribed and dispensed appropriately. Pharmacists can be considered a last line of defense in preventing the diversion of prescription drugs.”

“When a pharmacist fails in their responsibility to follow the requirements of the Controlled Substance Act, they compromise public trust and may cause great harm to our citizens and communities,” said Curt L. Muller, Special Agent in Charge for the Office of Inspector General of the U.S. Department of Health and Human Services. “We will continue working with our local, state, and federal partners to hold accountable individuals that put the public at risk.”

The claims made in the complaint are allegations the United States must prove if the case proceeds to trial.

The Office of Inspector General of the Department of Health and Human Services, Drug Enforcement Administration, Federal Bureau of Investigation and Missouri Medicaid Fraud Control Unit investigated the case. Assistant United States Attorney Amy Sestric is handling the case.

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