

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 orders that the application, executed by Henry M. Goshen, M.D., on February 9, 1993, for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This order is effective April 24, 1995.

Dated: March 20, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95-7316 Filed 3-23-95; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 93-60]

James C. Graham, M.D.; Denial of Application

On June 7, 1993, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to James C. Graham, M.D. (Respondent), proposing to deny his pending application for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's registration would be inconsistent with the public interest.

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause. The matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in Fort Wayne, Indiana, on January 26, 1994.

On October 11, 1994, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusions of law, and decision in which she recommended that the Respondent's application for registration be denied. Neither party filed exceptions to this opinion, and on November 14, 1994, the administrative law judge transmitted the record of the proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The administrative law judge found that Respondent received a medical degree from Indiana University, and practiced medicine in Fort Wayne continuously from 1958 to 1983. Respondent stated that he sometimes saw as many as one hundred patients a day, often worked up to 18 hours a day, performed multiple surgeries and

delivered two to three hundred babies each year. Respondent also testified that many of his patients were on welfare or Medicaid, and that he treated about thirty percent of his patients without compensation. Respondent stated that because of a busy schedule he was unable to keep appropriate documentation on all of his patients.

Judge Bittner found that in 1982, the Allen County Police Department received information that Respondent was writing prescriptions in exchange for merchandise. Subsequently, a cooperating individual and an undercover Indiana State police officer arranged meetings with Respondent in a local restaurant.

Judge Bittner found that in October through December 1982, Respondent provided the cooperating individual several prescriptions for a Schedule IV controlled substance in exchange for liquor and meat, and on one occasion issuing the prescription to the confidential informant in another's name. Subsequently, in November and December 1982, Respondent gave the undercover officer several prescriptions for Schedule III and IV controlled substances in exchange for meat and liquor. In January and February 1983, both undercover operatives were able to continue to acquire prescriptions for controlled substances, including a Schedule II narcotic controlled substance, from Respondent in exchange for merchandise. At the hearing, the undercover officer testified that Respondent never performed any physical examination during any visit.

The administrative law judge found that on November 21, 1983, Respondent was convicted in the United States District Court for the Northern District of Indiana of fourteen felony counts of dispensing controlled substances not in the course of professional practice and not for a medical purpose. Respondent was sentenced to three years imprisonment suspended to thirty days in jail and three years probation. As a result of this conviction, the Medical Licensing Board of Indiana summarily suspended Respondent's medical license. After a hearing in April 1984, that Board reinstated Respondent's medical license upon probationary terms.

Judge Bittner found that after Respondent had submitted his current pending application for DEA registration in 1991, he told DEA investigators that he had been set up and had never written any prescriptions for controlled substances that were illegitimate.

Respondent testified that since his State medical license were restored he

has never been accused of violating any rules or regulations. He stated that he has been limited to a part-time medical practice because of illness.

During his testimony, Respondent admitted meeting both undercover operatives. However, he denied that he ever gave either one a prescription in exchange for meat or liquor. Respondent testified that any prescription he may have given these individuals was for a legitimate medical purpose.

Respondent submitted documentary evidence on his behalf and several character witnesses also testified. The administrative law judge found that one psychiatrist reported that Respondent's judgment had been impaired at the time of these incidents, and another had found that an automobile accident had resulted in a brain injury to Respondent that had caused deficits in judgment. Both physicians reported this condition as now resolved. Other health professionals offered testimony that Respondent was a competent, compassionate, well qualified physician who posed no threat to the community.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that the registration would be inconsistent with the public interest.

Section 823(f) sets forth the following factors to 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.

It is well established that these factors are to be considered in the disjunctive, i.e., the Deputy Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate. *Henry J. Schwarz, Jr., M.D.*, 54 FR 16422 (1989).

Of the stated factors, the administrative law judge found that all five factors were relevant. Judge Bittner determined that the record established that Respondent blatantly and unabashedly abused his privilege as a registrant by issuing controlled substance prescriptions in return for his own gain in the form of goods and

merchandise. The administrative law judge considered the fact that this conduct occurred more than ten years before, but found that Respondent had not acknowledged wrongdoing or expressed any remorse for his misconduct. Judge Bittner concluded that Respondent is unable or unwilling to discharge the responsibilities inherent in a DEA registration, and recommended that his application for registration be denied.

The Deputy Administrator adopts the opinion and recommended ruling, findings of fact, conclusions of law and decision of the administrative law judge in its entirety. Based on the foregoing, the Deputy Administrator concludes that Respondent's registration is inconsistent with the public interest. 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 orders that the application of James C. Graham, M.D., be and it hereby is, denied. This order is effective March 24, 1995.

Dated: March 20, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95-7317 Filed 3-23-95; 8:45 am]

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Charles L. Sweet, M.D.; Revocation of Registration

On November 7, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles L. Sweet, M.D., of 219 Broadway, PO. Box 518, Fullerton, Nebraska. The Order to Show Cause proposed to revoke Dr. Sweet's DEA Certificate of Registration, BS2051061, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration under 21 U.S.C. 823(f).

The Order to Show Cause was served on Dr. Sweet on November 14, 1994. More than thirty days have passed since the Order to Show Cause was received by Dr. Sweet. The Drug Enforcement Administration has received no response from Dr. Sweet or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Deputy Administrator finds that Dr. Sweet has waived his opportunity for a hearing. Accordingly, under the provisions of 21 CFR 1301.54(e) and 1301.57, the Deputy Administrator enters his final order in this matter without a hearing and based on the investigative file.

The Deputy Administrator finds that in 1975, Dr. Sweet's DEA Certificates of Registration, AS4344951 and AS4355168 were retired based on his failure to renew them. As a result of his failure to renew his DEA registrations, Dr. Sweet's Nebraska State controlled substance registration was revoked on June 5, 1989. On June 29, 1989, DEA sent Dr. Sweet a letter of admonition advising him that he could not handle controlled substances until he obtained a DEA registration.

Dr. Sweet subsequently reapplied for DEA and Nebraska controlled substance registrations, and in October 1989, Dr. Sweet was issued DEA Certificate of Registration, BS2051061, as well as a Nebraska controlled substance registration. However, an investigation by the Nebraska Department of Health, Bureau of Examining Boards revealed that between June and October 1989, Dr. Sweet wrote numerous prescriptions for controlled substances when he did not possess either a DEA registration and/or a Nebraska controlled substance registration. As a result, on November 8, 1991, Dr. Sweet's Nebraska controlled substance registration was revoked. In addition, effective October 15, 1992, Dr. Sweet's state license to practice medicine and surgery was also revoked.

The Deputy Administrator finds that as of November 8, 1991, Dr. Sweet's license to handle controlled substances in the State of Nebraska was revoked, and as a result, he is unable to handle controlled substances. The Drug Enforcement Administration cannot register or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *James H. Nickens, M.D.*, 57 FR 59847 (1992); *Elliott Monroe, M.D.*, 57 FR 23246 (1992); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

Based on the foregoing, it is clear that Dr. Sweet's DEA Certificate of Registration must be revoked. 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 orders that DEA Certificate of Registration, BS2051061, previously issued to Charles L. Sweet, M.D., be, and it hereby is, revoked and that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective April 24, 1995.

Dated: March 20, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95-7318 Filed 3-23-95; 8:45 am]

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Office of Justice Programs

[OJP No. 1044 and ZRIN 1121-ZA08]

1995-96 National Institute of Justice Research Plan

AGENCY: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

ACTION: Notice of the availability of the *1995-96 National Institute of Justice Research Plan*.

SUMMARY: The National Institute of Justice (NIJ) is publishing this Notice of the availability of its *1995-96 National Institute of Justice Research Plan*.

DATES: The deadlines for receipt of proposals are Thursday, June 15, 1995; Friday, December 15, 1995; Monday, June 17, 1996; and Monday, December 16, 1996.

ADDRESSES: Comments should be addressed to the National Institute of Justice, 633 Indiana Avenue NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Jeremy Travis, Director, National Institute of Justice, 633 Indiana Avenue NW., Washington, DC 20531. To obtain copies of the *1995-96 National Institute of Justice Research Plan*, call the National Criminal Justice Reference Service (NCJRS), 1-800-851-3420, Box 6000, Rockville, MD 20850. The Plan is also available electronically via the National Criminal Justice Reference Service Bulletin Board (NCJRS*BBS). If you have Internet access; telnet to ncjrsbbs.aspensys.com or gopher to ncjrs.aspensys.com 71. Users without Internet access may direct dial to (301) 738-8895. Modems should be set at 9600 Baud and N-8-1. The NIJ Research Plan is listed under the "National Institute of Justice Information" menu.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201-03, as amended, 42 U.S.C. §§ 3721-23 (1988).

Background

The *1995-96 National Institute of Justice Research Plan* outlines the NIJ research and evaluation agenda for 1995, provides descriptions of program