electronically in the Department's main frame computer.

RETRIEVABILITY:

Records are retrieved by name of employee.

SAFEGUARDS:

Paper records are stored in metal filing cabinets and electronic records are stored on the Department's main frame computer. *Offices in the National Place Building are occupied during the day and are electronically secured at night.* Access to records is restricted to authorized personnel with official and electronic identification.

RETENTION AND DISPOSAL:

Files are maintained until the employee leaves the Department at which time paper records are destroyed and electronic records erased.

SYSTEM MANAGERS AND ADDRESS:

The system manager is the *Director, Management and Planning Staff*, Justice Management Division, Department of Justice, *National Place* Building, Room *1400, 1331 Pennsylvania Avenue,* NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

Direct inquires to the system manager identified above, Attention: FOI/PA Officer. Clearly mark the letter and envelope ''Freedom of Information/ Privacy Act Request.''

RECORD ACCESS PROCEDURES:

Make all requests for access in writing and clearly mark the letter and envelope ''Freedom of Information/Privacy Act Request.'' Clearly indicate the name of the requester, nature of the record sought, approximate date(s) of the record(s); and, provide the required verification of identity (28 CFR 16.41(d)). Direct all requests to the system manager identified above, attention FOI/PA Officer, and, provide a return address for transmitting the information.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information to the system manager listed above. State clearly and concisely the information being contested, the reasons for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope ''Freedom of Information/ Privacy Act Request.''

RECORD SOURCE CATEGORIES:

Information contained in the system is collected from the individual training personnel, and general personnel records.

SYSTEMS EXCEPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 95–24755 Filed 10–6–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 94–2]

Herman E. Walker, Jr., M.D.; Revocation of Registration

On September 16, 1993, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Herman E. Walker, Jr., M.D., (Respondent) of Houma, Louisiana, notifying him of his opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AW3369697, and should not deny any pending application for renewal of his registration, under 21 U.S.C. 823(f) and 824(a)(4), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that: (1) On two occasions in the fall of 1986, the Respondent prescribed Schedule II controlled substances to an undercover police officer for no legitimate medical reason; (2) between October 1986 and September 1988, the Respondent maintained 52 patients on prolonged and continuous regimens of Schedule III controlled substances (''anorectics''); (3) on or about January 19, 1989, an Administrative Complaint was filed against the Respondent by the Louisiana State Board of Medical Examiners (Board) charging him with prescribing, dispensing or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification; (4) on September 27, 1989, the Board suspended his license to practice medicine for five years, and he was ordered by the Board to surrender his Schedule II controlled substance privileges permanently. On November 21, 1989, Louisiana's Fourth Circuit Court of Appeals stayed the Board's decision suspending his license, but upheld its decision regarding the surrender of his Schedule II controlled substances privileges. The Order to Show Cause noted that the Respondent was, therefore, without state authorization to handle controlled substances in Schedule II, citing 21 U.S.C. 824(a)(3).

By letter dated October 14, 1993, the Respondent, through counsel, timely filed a request for a hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in New Orleans, Louisiana, on April 13, 1994, where both parties called witnesses to testify and introduced documentary evidence. On September 19, 1994, the Respondent filed Proposed Findings of Fact and Conclusions of Law and Argument, and on September 20, 1994, the Government filed its Proposed Finding of Fact, Conclusions of Law and Argument.

On November 30, 1994, Judge Bittner issued her Opinion and Recommended Ruling, Finding of Fact, Conclusions of Law and Decision of the Administrative Law Judge, recommending that Respondent's DEA registration be revoked, and that any pending applications be denied. The Respondent filed exceptions to Judge Bittner's decision on January 5, 1995. On January 12, 1995, Judge Bittner transmitted the record of these proceedings, including the Respondent's exceptions, to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, to include the Respondent's exceptions, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that in 1986, as a result of an anonymous complaint against the Respondent, the Louisiana State Police Department initiated an investigation of Respondent. As part of this investigation, on October 30, 1986, a State Police Officer, posing as a patient, visited the Respondent complaining that he worked long hours, was not sleeping at night, and that he wanted something ''to perk him up.'' He did not complain of any other medical or mental condition or problem. The Officer received a prescription from the Respondent for 30 dosage units of Ritalin. Ritalan is the brand name of a product containing methylphenidate, a Schedule II controlled substance. On November 24, 1986, the State Police Officer returned to the Respondent's office, did not complain of any medical or mental condition requiring treatment, and told Respondent that he had lost or

misplaced his Ritalin prescription. The Officer received another prescription from the Respondent for, inter alia, 15 dosage units of Ritalin. Although the same State Police Officer returned to the Respondent's office on January 14, 1987, the Respondent did not prescribe any controlled substances at that time.

On May 14, 1987, a second State Police Officer visited the Respondent and told him that he had to drive all night and sought a stimulant to help him stay awake. In response to the Respondent's questions, the Officer told him that he slept very well and getting to sleep was not his problem. The Respondent refused to give the Officer a prescription for amphetamines, but the Respondent gave the Officer a prescription for XANAX, to help him sleep. XANAX is a product containing alprazolam, a Schedule IV controlled substance.

On January 19, 1989, the Board's Investigating Officer filed an Administrative Complaint against the Respondent, primarily alleging that on approximately fifty occasions between September 1987 and September 1988, the Respondent concurrently prescribed multiple or excessive amounts of controlled substances to approximately fifty-two patients. After conducting a hearing, the Board issued its decision on September 27, 1989, concluding that the Respondent had substituted—

> Prolonged medication regimes and polypharmacology for sound medical treatment, repeatedly and consistently prescribed legally controlled, dependency-inducing substances without legitimate medical justification therefor . . . [and that] such practices clearly and convincingly demonstrate medical incompetency on the physician's part and continuing and recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state.

The board, inter alia, ordered Respondent to permanently refrain from handling Schedule II controlled substances and to surrender his registration as to that schedule. However, when contacted by a DEA Diversion Investigator, the Respondent refused to surrender his DEA registration with respect to Schedule II. The district court affirmed the Board's order, and the appellate court affirmed the district court's decision. The record contains notice from the Respondent of his intent to file an appeal to the Louisiana Supreme Court, but it does not contain anything further concerning the status of that appeal.

During the hearing before Judge Bittner, Mr. Hingle, a registered pharmacist and consultant to the Board, testified that he had also served as the acting chief of the State Narcotics Program in the health Department. He testified that the Respondent had prescribed amphetamine-type substances, also called anorectics, and that the State Board of Medical Examiners had issued a policy statement (Statement) in 1984, advising physicians that if a prescription for anorectics was issued without medical justification, the physician's medical license was subject to suspension or revocation. The Statement also established standards, which if violated, would be considered per se evidence of prescribing controlled substances without legitimate medical justification. These standards included restricting the period of time anorectics could be prescribed to a single patient to 12 consecutive weeks, restricting the quantity of dosages per patient to insure the patient did not ingest more than one maximum therapeutic dosage unit per day, and restricting the issuance of anorectic prescriptions to persons who were not drug dependent and who demonstrated weight loss during the course of treatment. The Statement was part of the record, and Mr. Hingle testified that the Statement was given to physicians when they applied for their annual relicensure and was also published in a newsletter issued by the Board to all state licensed physicians.

Because of complaints and subsequent investigation results, a DEA Assistant Special Agent issued subpoenas to five pharmacies, and a DEA Diversion Investigator obtained prescriptions written for specified patients by the Respondent between January 1992 and September 1993. At the hearing before Judge Bittner, the Investigator testified that patient profiles were prepared by using those prescriptions. Mr. Hingle then testified, after referring to the patient profiles, that in numerous instances the Respondent had issued to individual patients concurrent prescriptions for multiple substances, and that he would not have filled these concurrent prescriptions because of the potential for abuse of the substances if taken in conjunction with one another. He also testified about the quantity of controlled substances contained in numerous prescriptions and opined that in specified instances the quantities prescribed or the period of time the substance was to be consumed was excessive and could result in physical dependency. For example, in a single month, one specific patient was prescribed quantities of Valium and Vicodin which would allow the patient to take approximately 11 doses a day. Vicodin was described as a phenanthrene opioid, and Valium as the brand name of a product containing diazepam, a Schedule IV controlled substance.

Also, Mr. Hingle noted a specific instance in which a prescription, dated November 22, 1993, was issued for two substances containing hydrocodone as a principal product ingredient. He testified that if the patient had filled and consumed these substances together, the effect would have been of taking a duplicate dosage of a depressant to the central nervous system, and that such effect could have been dangerous to the patient. He also testified that the Respondent had issued on January 7, 1993, five prescriptions for central nervous system depressants to one patient, that such a prescription practice was unusual, and that he could not recall ever having seen five prescriptions for controlled substances or central nervous system depressants issued on the same day to a single patient for concurrent use.

The Respondent testified during the hearing before Judge Bittner, stating that he was a physician in general practice and had been practicing medicine in Houma, Louisiana, since 1966. He stated that he was aware that Ritalin was mostly prescribed to children for attention deficit disorder, and that he had prescribed Ritalin to the State Police Officer knowing that he did not have that condition. He also testified that he knew XANAX was often used as a sleeping pill.

Further, the Respondent testified about his usual treatment and prescribing practices, especially of patients participating in his weight-control practice. During his testimony, the Respondent denied knowledge prior to the Board's action against him of the ''12-week rule'' pertaining to the prescription of anorectics. He testified that, after he became aware of the rule, he had continued prescribing anorectics in compliance with the rule, but that he had not prescribed any anorectics since the end of 1990.

In response to Mr. Hingle's testimony, the Respondent testified about his diagnosis, treatment, and issuance of prescriptions relative to specifically addressed patients. However, he did not offer into evidence any patient treatment records documenting his practices. Also, the Respondent did not acknowledge committing any wrongdoing in his prescription practices, despite the 1989 findings of the Board and the patient profile evidence of his multiple prescriptions to single patients in 1992 and 1993 presented during the hearing before

Judge Bittner. He also did not present any evidence of remedial actions taken or proposed, except his testimony that he had stopped prescribing anorectics in 1990.

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

These factors are to be considered in the disjunctive. That is, the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR. 16422 (1989).

Here, the Deputy Administrator finds that factors one, two, four and five are relevant in determining whether the Respondent's continued DEA registration would be inconsistent with the public interest. Evidence of record bearing on factor one includes the action of the Louisiana Board of Medical Examiners, as upheld by the Louisiana Fourth Circuit Court of Appeals, in ordering the Respondent to surrender his Schedule II controlled substance privileges permanently. Such action clearly reflects that Board's recommendation as to this Respondent's access to Schedule II substances.

The Respondent's testimony demonstrated his knowledge of the medical purposes for which Ritalin and XANAX would be prescribed. Yet his actions of prescribing Ritalin, which contains a Schedule II substance, and XANAX, which contains a Schedule IV substance, to State Police Officers for no legitimate medical reason is not in compliance with applicable laws relating to the dispensing of controlled substances. Such actions are relevant to factors two and four of Section 823(f).

Further, the record also established that in 1987 and 1988 the Respondent prescribed anorectics in a manner which directly violated the Louisiana Medical Board's disseminated 1984 Statement concerning the limitations placed upon issuing prescriptions for that substance. Although the Respondent denied knowledge of that Statement, significantly of record is the Board's reply to the same contention raised by the Respondent before it:

> Our findings and conclusions here, however, do not depend on whether or not Respondent did in fact have prior notice of the Statement, and we make no finding in that regard. The substance of the Statement is accepted medical fact of which any competent physician who undertakes to prescribe anorectic medications is, or should be, aware. Thus, as a physician who testified on [the Respondent's] behalf observed with respect to overprescribing anorectics, without recalling whether he himself had seen the Board's Statement, all physicians have been ''cautioned about it. I've been cautioned about amphetamines, all of us have, that you don't use them over a prolonged period of time, excessive long period of time.''

Finally, the Board's findings as to the Respondent's medical treatment and prescription practices, and the testimony of Mr. Hingle, establish instances in the record of the Respondent's prescribing excessive amounts of substances to individuals in combinations commonly seen in cases of suspected substance abuse. Despite the Respondent's testimony explaining his prescribing practices, the Deputy Administrator finds that the preponderance of the evidence warrants a conclusion that the Respondent's prescribing practices are not consistent with the prevailing and usually accepted standards of medical practice in the State of Louisiana, and ''may threaten the public health or safety.'' 21 U.S.C. 832(f)(5).

In his filed exceptions, the Respondent asserts that Judge Bittner erred in admitting hearsay evidence during the administrative hearing. However, since the Respondent's hearing was conducted in accordance with applicable statutes and regulations, the Deputy Administrator declines to adopt the Respondent's exceptions based upon his challenged evidentiary rulings. See, e.g., Klinestiver v. Drug Enforcement Administration, 606 F.2d 1128, 1129–30 (D.C. Cir. 1979); *Gary E. Stanford, M.D.,* Docket No. 91–30, 58 FR 14430 (1993).

Next, the Respondent has requested that any restrictions placed upon his DEA registration be limited to Schedule II substances as recommended by the Board. He wrote that he had been practicing medicine for the past five years under these restrictions without any violation or charges. However, the record demonstrates through the patient profiles and Mr. Hingle's testimony that the Respondent, in 1992 and 1993, had prescribed excessive quantities of controlled substances, to include substances from Schedule IV, to individual patients. Thus, the Respondent's requested restriction is inadequate; revocation is the appropriate remedy.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AW3369697, previously issued to Herman E. Walker, Jr., M.D., be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of said registration be, and hereby are, denied.

This order is effective November 9, 1995.

Dated: October 3, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–24949 Filed 10–6–95; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Anthropological, Geographic Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following five meetings.

Name: Advisory Panel for Anthropological and Geographic Sciences (#1757).

Date and Time: November 3–4, 1995; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 920, Arlington, VA 22230.

Contact Person: Dr. John E. Yellen, Program Director for Archaeology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1759.

Agenda: To review and evaluate Archaeology proposals as part of the selection process for awards.

Date and Time: October 23–24, 1995; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 920, Arlington, VA 22230.

Contact Person: Dr. Mark Weiss, Program Director for Physical Anthropology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1758.