long-term substance abuse problem in 1992. However, he sought in-patient treatment and long-term follow-on outpatient treatment of his problem. The record demonstrates that his treatment program has a high success rate, and that throughout his post-treatment time the Respondent has remained drug-free. Further, both through testimony from colleagues presented at the hearing, and through documentary exhibits provided, the Respondent has shown that his medical competency has been excellent, his technical skills above-average, and no adverse reports have been submitted concerning his quality of care. As noted by Judge Tenney, the record reflects that ''[a] heterogeneous group of individuals from the fields of medicine and law enforcement concluded that the Respondent is no longer any threat to the public health and safety.''

The Deputy Administrator emphasizes that this order should in no way be read to condone any illicit use or distribution of marijuana. As Judge Tenney succinctly noted, ''[t]he use or distribution of marijuana is a criminal act, and should be punished as such. The purpose of this proceeding, however, is not to punish but to protect the public interest. See Denis C. Chan, M.D., 55 FR 8,205 (1990); Leo R. Miller, M.D., 53 FR 21,931 (1988).'' Therefore, consistent with these findings, and the fact that the Oklahoma Board and Bureau have levied limitations upon the Respondent's practice of medicine and handling of controlled substances, the Deputy Administrator finds that granting the Respondent's application for a DEA Certificate of Registration, with the following limitations, would be consistent with the public interest: (1) The Respondent's controlled substance handling authority shall be limited to the writing of prescriptions only, and he shall not dispense, possess, or store any controlled substance, except that the Respondent may administer controlled substances in a hospital and may possess controlled substances which are medically necessary for his own use, and which he has obtained pursuant to a written prescription from another licensed practitioner (unless the substance is legitimately obtainable without a prescription); (2) the Respondent shall not prescribe any controlled substances for his own use; (3) the Respondent shall maintain a log, recording the date the prescription was written, patient's name, name and amount of the controlled substance(s) prescribed, and the pathology for which the prescription was written, of all controlled substance prescriptions he has written, and upon request by the Special Agent in Charge, or his designee, of the nearest DEA office, submit or otherwise make available the log for inspection; (4) the Respondent shall comply with any and all restrictions, limitations, or conditions imposed by the Oklahoma Board of Medical Licensure and Supervision and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control until such authorities remove them; (5) until the Oklahoma Board terminates the Respondent's probationary period on his medical license, the Respondent shall submit, upon the request of the Special Agent in Charge, or his designee, of the nearest DEA office, copies of the results of his random urine or blood screening tests. These restrictions shall remain in place for three years beginning on the date of this order.

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 21 CFR 0.100(b) and 0.104, hereby orders that the application of David D. Miller, M.D., for a DEA Certificate of Registration for a practitioner be, and it hereby is granted subject to the limitations enumerated above. This order is effective November 24, 1995.

Dated: October 13, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–26223 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–11]

Albert L. Pulliam, M.D.; Denial of Application

On October 26, 1993, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Alert L. Pulliam, M.D., (Respondent) of Houston, Texas, notifying him of an opportunity to show cause as to why DEA should not deny his pending application for a DEA Certificate of Registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest.

Specifically, the Order to Show Cause alleged that: (1) On three separate occasions between September 1988 and December 1988, the Respondent issued controlled substance prescriptions to an undercover DEA Special Agent for other than legitimate medical purposes and outside the scope of his professional practice, and on one of those occasions the Respondent knowingly accepted stolen merchandise in exchange for prescriptions; (2) on December 21, 1988, the Respondent was indicted on nine counts of unlawful dispensing of controlled substances, in violation of 21 U.S.C. 841(a)(1), in the United States District Court for the Southern District of Texas; all of the counts constituted felony offenses relating to controlled substances; (3) on September 18, 1989, the Respondent was convicted, after entering a guilty plea, to three counts of unlawfully dispensing controlled substances, and he was sentenced to thirty days incarceration, five years probation, 100 hours community service, and a $10,000 fine; (4) on October 6, 1989, the Administrator had issued a final order revoking the Respondent's previous DEA registration as inconsistent with the public interest based upon his felony conviction and improper prescribing practices; and (5) on November 6, 1989, the Respondent voluntarily surrendered his Texas Controlled Substance Privileges for an indefinite period, thus resulting in his not being authorized to handle controlled substances in the State of Texas.

On November 22, 1993, the Respondent filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Houston, Texas, on October 19, 1994, before Administrative Law Judge Paul A. Tenney. At the hearing, the Government called one witness to testify and introduced documentary evidence, and the Respondent, acting without counsel, testified, called no other witnesses, and offered no documentary evidence. After the hearing, the Government submitted proposed findings of fact, conclusions of law and argument. The Respondent did not submit a post-hearing brief. On December 14, 1994, Judge Tenney issued his Opinion and Recommended Ruling, recommending that the Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to his decision, and on January 17, 1995, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 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 Findings of Fact, Conclusions of Law and Recommended Ruling 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 October 1989, the Administrator of the DEA issued an order revoking the Respondent's registration certificate, effective November 15, 1989, because his continued registration would have been inconsistent with the public interest. The Administrator based his decision upon the facts that (1) in 1989 the Respondent had been convicted of a felony offense relating to controlled substances, (2) in 1988 he had exhibited an inability or unwillingness to properly handle controlled substances when he issued prescriptions for such substances to an undercover Agent for other than legitimate medical purposes, and (3) in 1988 he had falsified the Agent's patient records in order to conceal his illegal activities. Albert L. Pulliam, M.D., 54 FR 42376 (1989). Further, the Deputy Administrator finds that as part of the 1988 investigation, the Respondent received a purportedly ''stolen'' television and VCR from the undercover agent in exchange for $150.00 and prescriptions for controlled substances issued without medical justification.

On November 6, 1989, the Respondent voluntarily surrendered his DEA Certificate of Registration and his Texas Controlled Substances Privileges. On April 30, 1993, the Texas State Board of Medical Examiners granted Respondent permission to reapply to the DEA and the Texas Department of Public Safety for reinstatement of his controlled substances registrations in all schedules, noting that the granting or denying of such an application would be within the authority and discretion of the appropriate agency. On November 11, 1993, the Respondent received his Texas certificate to dispense controlled substances, and that certificate was renewed on March 31, 1994, for an additional year.

At the hearing before Judge Tenney, the Respondent testified that he felt that he had paid for his mistakes, that he had ''learned a great deal about narcotics and how to be very careful about dispensing [them],'' and that he was confident that he would not have problems in the future writing a prescription for narcotics. Next the Respondent described his past medical practice and testified that his current practice was ''basically the same.'' However, he noted that for the past five years he had been practicing medicine without issuing prescriptions for controlled substances, and he expected to issue less controlled substance prescriptions than the average doctor in his future practice.

The Respondent also testified that he thought he was issuing prescriptions for controlled substances to the Special Agent in 1988 for a legitimate medical purpose, for the Special Agent had complained of a cough and a headache. The Respondent also stated that he did not know that the television and VCR he received from the agent was stolen property.

The Government called the Special Agent who had conducted the investigation in 1988 which resulted in the 1989 conviction of the Respondent, and he testified that in September 1988, November 1988, and December 1988, he received prescriptions from the Respondent for controlled substances, to include Valium, Tylenol No. 4, and Tussionex, despite the lack of a medical examination or any other clinical tests taken to substantiate a medical need for those substances. Valium contains diazepam, a Schedule IV controlled substance, Tylenol No. 4 contains codeine, a Schedule IV controlled substance, Tylenol No. 4 contains codeine, a Schedule III controlled substance, and Tussionex, contains hydrocodone, also a Schedule III controlled substance.

The Special Agent also stated, and the transcripts corroborated, that he had not complained to the Respondent of tension headaches or problems with bronchitis, and that on one occasion the Respondent had made a statement about the Special Agent's lack of a medical problem. However, the record contains a copy of a patient record in the name used by the Special Agent during the 1988 investigation with entries noting tension headaches and bronchitis. The Special Agent also testified that he paid the Respondent for the prescriptions received in September and November 1988, that during his visit in November 1988, he told the Respondent that he could obtain stolen electrical equipment to sell, and during his December 1988 visit he brought a television with a VCR, valued at approximately $600 to $650, to the Respondent's office. The Respondent asked the Special Agent to put the television in the Respondent's car, and after discussing a price, the Respondent gave the Special Agent a check for $150 and prescriptions for Tussionex, Tylenol No. 4, and Valium at no charge. The Special Agent wore a transmitting device during each visit with the Respondent, their conversations had been recorded, and the transcripts of those recordings were made a part of the record.

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 granting the application would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered to determine 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 or safety.

These factors are to be considered in the disjunctive; 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 an application for registration should be denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, factors two, three, four, and five are relevant in determining whether granting the Respondent's application would be inconsistent with the public interest. Significantly, Judge Tenney noted, and the Deputy Administrator concurs, that the real question in this case is whether the Respondent can now be trusted with the responsibilities inherent in being granted a DEA Certificate of Registration. His past misconduct is relevant, however, to a determination of his present trustworthiness. Therefore, relevant to factor two, the Respondent prescribed controlled substances to a Special Agent in 1988 for no legitimate medical purpose. As for factor three, the record contains evidence of the Respondent's conviction as a result of a guilty plea to three counts of unlawfully dispensing controlled substances and the sentence resulting from that conviction. This conviction also demonstrates the Respondent's failure to comply with federal laws relating to controlled substances, factor four.

As to factor five, the record contains evidence demonstrating that the Respondent had falsified patient records, for despite the transcript demonstrating that the Respondent had told the Special Agent he had no medical problem, the treatment record contained annotations of headaches and bronchitis. Next, the Special Agent testified that he had informed the Respondent that the television exchanged in December 1988 was stolen, and yet at the hearing in October

1994, the Respondent continued to deny knowledge of that fact. Although, as Judge Tenney noted, the transcripts of the conversation between the Respondent and the Special Agent did not demonstrate that the Special Agent had expressed the words, ''the television is stolen,'' they clearly indicated that the Respondent was aware of the Special Agent's access to stolen property, that the Respondent knew the value of the television, and that the Respondent paid the Special Agent merely a fraction of that value. Thus, the Respondent's testimony at the October 1994 hearing demonstrates his failure to be truthful, a fact which impacts upon a determination of whether his conduct may threaten the public health and safety under factor five.

Further, the Respondent asserted that he was sure he would not engage in misconduct related to controlled substances in the future, yet he offered no evidence of remedial actions he has taken since his 1989 conviction to substantiate his assurances. Also, he testified that his medical practice remained the same, yet he did not submit any evidence to substantiate the fact that he remedied his problems concerning falsifying patient records and failing to conduct medical examinations prior to dispensing medication. For example, he submitted no evidence of acquiring additional education in the handling of controlled substances. Thus, the Deputy Administrator concurs with Judge Tenney's conclusion that DEA ''has not been adequately assured that the Respondent will responsibly use a DEA Certificate of Registration.'' Therefore, the Deputy Administrator finds that the public interest is best served by denying the Respondent's application for a DEA Certificate of Registration at this time.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 21 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Albert L. Pulliam, M.D. be, and it hereby is, denied. This order is effective November 24, 1995.

Dated: October 13, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–26224 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–09–M

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and to comply with the Paperwork Reduction Act of 1995. Public comments are encouraged and will be accepted for ninety days from the date listed at the top of this page in the Federal Register. This information collection document will contain the following information:

(1) The title of the collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection.

Comments and/or suggestions regarding the information collection in this notice, especially regarding the estimated public burden and associated response time, should be directed to Ms. Ellen Wesley, Information Collection Coordinator, Office of Justice Programs at 202–616–3558. Additionally, Mr. Robert B. Briggs, Information Collection Clearance Officer, U.S. Department of Justice, should be contacted at 202–514–4319. If you anticipate commenting on the information collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the Information Collection Coordinator, Office of Justice Programs and the Information Collection Clearance Officer, U.S. Department of Justice of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the information collection should be submitted to:

Ms. Ellen Westley, Office of Justice Programs, Room 401, Indiana Building, 633 Indiana Ave., NW., Washington, DC 20531 or

Mr. Robert B. Briggs, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20531

The information collection under review:

Revision of a Currently Approved Collection

(1) Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

(2) None. Bureau of Justice Assistance, United States Department of Justice.

(3) Primary: State, Local, or Tribal Government. Other: None. This collection covers the forms used to administer formula grant awards under the provisions of Subtitle C-State and Local Law Enforcement Assistance Act of the Anti-Drug Abuse Act of 1988, as amended by the Crime Control and the Immigration Acts of 1990.

(4) 70,108 responses per year at .38 hours per response.

(5) 26,829 annual burden hours.

Public comment on this proposed information collection is encouraged.

Dated: October 18, 1995.

Robert B. Briggs,

Department Information Collection Clearance Officer, United States Department of Justice.

[FR Doc. 95–26247 Filed 10–23–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collection Under Review

The proposed information collection is published to obtain comments from the public and to comply with the Paperwork Reduction Act of 1995. Public comments are encouraged and will be accepted for ninety days from the date listed at the top of this page in the Federal Register. This information collection document will contain the following information:

(1) The title of the collection;

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(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection.

Comments and/or suggestions regarding the information collection in this notice, especially regarding the estimated public burden and associated response time, should be directed to Ms. Audrey B. LaSante, Federal Bureau of Investigation—Academy, Federal Bureau of Investigation at 703–640–1196. Additionally, Mr. Robert B. Briggs, Information Collection Clearance Officer, U.S. Department of Justice, should be contacted at 202–514–4319. If you anticipate commenting on the information collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify Ms. Audrey B. LaSante, Federal Bureau of Investigation—Academy and the Information Collection Clearance Officer, U.S. Department of Justice of your intent as soon as possible. Written