	Schedule
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol except Levo-Alphacetylmethadol (9603).	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexane-carbonitrile (8603)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Morphine (9300)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

A registered manufacturer filed a request for a hearing with respect to amphetamine and methamphetamine. The requesting party subsequently submitted a letter dated August 29, 1995, withdrawing their request for a hearing. On September 1, 1995, an order terminating the proceedings was issued by Administrative Law Judge Mary Ellen Bittner. Another registered manufacturer filed a comment requesting that the firm's application to manufacture meperidine be denied because there is no need for Radian to register as a third domestic manufacturer of meperidine and that Radian must show it can maintain adequate safeguards against the theft and diversion of meperidine. In regards to this comment, the firm, which has been approved as a manufacturer of meperidine for previous applications, has been subject to periodic in-depth investigations by DEA to evaluate the firm's fitness as a DEA registrant. Additionally, in response to this recent application, the firm was inspected by DEA and found to have adequate safeguards to prevent the theft or diversion of meperidine. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 29, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–29772 Filed 12–6–95; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–23]

Prince George Daniels, D.D.S.; Denial of Application

On January 31, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Prince George Daniels, D.D.S., (Respondent) of San Jose, California, notifying him of an opportunity to show cause as to why DEA should not deny his pending application under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

(1) Between December 2, 1982 and February 3, 1983, [the Respondent] issued four prescriptions for Didrex, a Schedule III controlled substance, to two undercover individuals[,] and these prescriptions were not issued for a legitimate medical purpose in the usual course of [his] professional practice.

(2) On June 7, 1983, in the Municipal Court, Santa Clara County Judicial Circuit, State of California, [the Respondent] pled no contest to two counts of prescribing controlled substances to a person not under [his] treatment for a pathology in violation of California Health and Safety Code [Section] 11154 and one count of practicing unauthorized medicine in violation of California Business and Professions Code [Section] 2052.

(3) On January 7, 1985, the Board of Dental Examiners, Department of Consumer Affairs, State of California (Dental Board), suspended [the Respondent's] state dental license for one year, but stayed this suspension pending the successful completion of three years probation.

(4) On or about May 1, 1986, [the Respondent] arranged for the sale of cocaine to an undercover DEA agent. Furthermore, [he] made arrangements for other individuals to forcibly take the cocaine from the DEA undercover agent after [he] sold him the cocaine.

(5) On January 3, 1987 [the Respondent's] previous DEA number, AD6665838, expired [,] and [he] did not submit a renewal application for that number. Thereafter [his] DEA number was retired from DEA registration.

(6) On August 14, 1987, in the United States District Court, District of Northern California, [the Respondent] pled guilty to one count of conspiracy to deliver cocaine in violation of 21 U.S.C. 841 and 846 and to one count of possession of cocaine in violation of 21 U.S.C. 841. On October 2, 1987, [the Respondent was] sentenced to three years imprisonment.

(7) On August 22, 1988, the Dental Board terminated [the Respondent's] probation and revoked [his] state dental license. Effective January 10, 1990, the Dental Board restored [his] state dental license but placed [his] license on a three year probationary term.

On March 9, 1994, the Respondent filed a timely request for a hearing, and following prehearing procedures, a hearing was held in San Francisco, California, on November 9, 1994, before Administrative Law Judge Paul A. Tenney. At the hearing, the Government offered the stipulated testimony of two witnesses and introduced various documentary exhibits, and the Respondent, represented by counsel, testified, called three witnesses, and introduced several documentary exhibits. After the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On January 30, 1995, Judge Tenney issued his Findings of Fact, Conclusions of Law, 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 March 9, 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 opinion 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 the Respondent received his license to practice dentistry in California in 1975. Further, the Respondent previously held a DEA Certificate of Registration, AD6665838, which expired on June 30, 1986, and which the Respondent did not renew but let lapse. However, on November 12, 1992, the Respondent

submitted an Application for Registration under the Controlled Substances Act of 1970, as a practitioner for handling controlled substances in Schedules II through V.

On December 2, 1982, the Respondent issued a prescription for Didrex to an undercover police officer (Officer). The parties stipulated that Didrex (benzphetamine) is a Schedule III non-narcotic stimulant, and has been a Schedule III controlled substance since 1973. The Officer received dental work and then requested the Didrex prescription, purportedly for weight control. The Respondent testified that, although he ''didn't know that much about Didrex,'' he issued the prescriptions based upon the Agent's representation that her doctor had previously prescribed Didrex, and upon a pharmacist's representation that he would fill the prescription. On December 21, 1982, the Respondent authorized a Didrex refill, and on January 4, 1983, he indicated that he would authorize an additional refill. The Respondent was arrested shortly after he prescribed the Didrex, and on June 7, 1983, in a California State court, he pled *nolo contendere* to two counts of violation of California Health and Safety Code Section 11154 by prescribing a controlled substance to a person not under his treatment for a pathology, and a violation of Business and Professions Code Section 2052 for the unauthorized practice of medicine. Based on the facts underlying his *nolo contendere* plea, the California Board of Dental Examiners suspended the Respondent's dental certificate for one year in January 1985, but the suspension was stayed in favor of a three-year probationary period with various conditions.

In April 1986, a DEA Special Agent was introduced to the Respondent's brother as a potential cocaine purchaser. In stipulated testimony, an Agent who had monitored the cocaine transaction noted that after negotiations, the undercover Agent on the scene arranged to buy two kilograms of cocaine from the Respondent's brother. On May 1, 1986, this Agent and the Respondent's brother met at the Respondent's dental clinic, the Respondent showed them into his office, locked the office door, and directed his brother to give the Agent a cardboard box containing two cellophane bags, each filled with a white powdery substance. The Respondent then gave a note to the Agent which represented the contents of the two bags, 1,667 grams of cocaine, and the price for both bags, $61,679.00. The Agent asked why two kilograms of cocaine were not tendered as originally agreed, and the Respondent explained and stated that the rest of the cocaine could probably be obtained later that day. The Respondent also indicated that after May 17th, he could obtain up to three kilograms of cocaine from his source if given four days' notice. While still in the Respondent's office, the Respondent explained that he expected $250 for his part in the cocaine transaction, and when the Agent expressed his opinion that $250 seemed to be a low payment, the Respondent replied that he was doing ''a favor for a favor.'' Upon leaving the dental clinic, the Agent arrested the Respondent and his brother.

On May 7, 1986, the Respondent was indicted in the United States District Court for the Northern District of California on one count of conspiring to distribute cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. 846. He was also indicted on one count of unlawfully distributing 1,667 grams of cocaine in violation of 21 U.S.C. 841(a)(1). On October 2, 1987, the Respondent pled guilty to both counts. He was sentenced to three years' imprisonment on each count, the sentences were ordered to run concurrently, and he was fined $100.00. The Respondent served approximately 16 to 18 months in prison from late 1987 until March 1989, when he was released to a half-way house. He was discharged from his sentence on August 25, 1989.

Effective August 22, 1988, the California Board of Dental Examiners (Dental Board) revoked the Respondent's dental license based on the cocaine-related convictions. The Dental Board also noted that the Respondent's conduct resulted in a violation of the probationary period that it had imposed after the Didrex incident. On January 10, 1990, the Dental Board reinstated the Respondent's dental license subject to various conditions, and by letter dated February 24, 1993, the Dental Board informed the Respondent as follows: ''Our records show that you have fully complied with the terms of your probationary order. Therefore, all the rights and privileges associated with your dental license have been restored.'' The Respondent testified that since his release from prison in March 1989, he has had no negative encounters with law enforcement agencies.

At the hearing before Judge Tenney, the Respondent testified about the cocaine transaction, indicating that he never had sold drugs with his brother until the May 1, 1986 incident, and that his involvement then was minimal. He stated that his brother sought his help ''to get out of a jam,'' and that his brother hinted that the transaction would involve cocaine. The Respondent explained that ''all I did was read a note, and that's all I had intended to do * * *. I wasn't sure what I was supposed to do.'' He testified that he never received any money for his part in the cocaine transaction, nor that there were ever any arrangements to pay him. Further, as to answers he gave to agents who had questioned him about his source for the cocaine, the Respondent testified before Judge Tenney that he had ''made up'' the names of cocaine suppliers and deliverers. The Respondent also testified that he had ''made up the story'' he gave the agents after his arrest concerning a ''plan'' to rob the Agent of the cocaine after he had paid for it. Finally, he stated that he ''was involved with something [he] shouldn't have been involved in. Right, wrong [,] or indifferent, didn't matter. I should not have been involved with the selling of drugs, as a dentist or as a person * * *.''

The Respondent provided extensive information concerning his rehabilitative efforts, including his involvement with Christian workshops, his studies to become a minister during his prison time for the cocaine convictions, his involvement since 1990 with the Morris Cerullo World Evangelists in visiting prisons and evangelizing, his monetary contributions to narcotics programs, his devotion of approximately 12 hours per week working with street gangs and prisoners, his additional ministry work, such as teaching English to Spanish, Vietnamese, and Cambodian people, providing food and clothing to the needy, and his work with the Kenneth Hagen Ministry, the Roberts Ministry, the American Fellowship Church, and various other ministries and religious organizations. The Respondent testified that he had recently visited China, Singapore, Malaysia, and Mexico, to ''share[] the gospel,'' and that while in Malaysia, he had donated his dental services.

While the Respondent was incarcerated, Dr. Lloyd Dickey, and his son, Dr. Leonel Dickey, continued operating the Respondent's practice. After the Respondent's dental license was reinstated in January 1990, the Respondent returned to that practice. Currently Dr. Leonel Dickey continues to assist the Respondent several times per week. The Respondent treats a diverse ethnic population, primarily individuals of Mexican or Vietnamese descent, and currently treats patients who have private insurance, although he devotes about 10 percent of his

practice to providing free treatment to poor individuals. He testified that he could not treat ''MediCal'' patients at the present time because he does not have a DEA Certificate of Registration. Also, the Respondent stated that he performs a variety of dental work, the Respondent stated that he performs a variety of dental work, but that he can only perform extractions or root canals when Dr. Leonel Dickey was available in case the patient needed controlled substances for relief from pain. The Respondent stated that his inability to prescribe controlled substances prohibited him from maximizing his patient load, inhibited his earning potential, and prevented him from giving his patients full and complete treatment. Further, in some cases, he is required to refer his patients to other dentists because his inability to prescribed controlled pain medications.

Both the Respondent and Dr. Dickey testified that controlled substances were not stored at the office, but that when a patient required pain medication, Dr. Dickey wrote a prescription. However, the Respondent testified that if he was granted a DEA Certificate of Registration, he will would not want to store any controlled substances at his office.

Dr. Leonel Dickey, a dentist licensed to practice in California since 1979, testified that he had known the Respondent since the early 1970's, but that they had lost tough from 1974 until approximately 1987. He also stated that the Respondent had informed him of ''[p]roblems he ran into with the law'' when he asked him to cover for his practice while he was incarcerated. Based upon his experiences of working with the Respondent since 1990, Dr. Dickey expressed the opinion that the Respondent was a very competent dentist. He also testified that the Respondent provided free dental work to a portion of his patients, but that without a DEA Certificate of Registration, it was difficult for the Respondent to ease the discomfort level of his patients. He also attested to the Respondent's involvement in Christian ministries. Dr. Dickey also stated that he had no ''hesitations'' about the Respondent receiving a DEA registration, and that he had seen no evidence of ''any kind of unusual activity'' that would suggest that the Respondent was untrustworthy or incompetent. However, he testified that he had very little knowledge about the details of the Respondent's convictions for selling cocaine, and that he was unfamiliar with the Respondent's problems with Didrex in 1982 and 1983.

De. Lloyd Dickey, an experienced Doctor of Dental Surgery since 1947, testified that he had know the Respondent since approximately 1971, and that he regarded him as ''a son.'' He stated that he believed the Respondent should be granted a DEA registration, for it would benefit his patients. However, he testified that he was not very familiar with the Respondent's cocaine charges, having heard only ''street gossip'' about the incidents. Dr. Dickey was more familiar with the Respondent's problems with Didrex, because he had testified on the Respondent's behalf before the Dental Board.

Finally, Reverend Kevin West, who holds a Doctor of Divinity degree, testified that he had met the Respondent in late 1989, and that they had decided to form a ministry together, which was incorporated in 1991. The ministry consists of Bible studies, Alcoholics Anonymous/Narcotics Anonymous meetings, and general acts of ''[ministry] to the local people at a local church.'' Reverend West stated that he had observed the Respondent closely, and he attested to the Respondent's ordination as a minister, his work as Reverend West's associate pastor, his visits to prisons, his work with gang members, and various other good deeds performed by the Respondent. He opined that the Respondent was ''definitely * * * rehabilitated.'' However, Reverend West testified that, prior to the hearing before Judge Tenney, he had heard only limited information about the Respondent's involvement with cocaine in May of 1986, and that he was totally unaware of the Didrex prescription problems.

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

(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 *Richard J. Lanham, M.D.*, 57 FR 40,475 (1992); *Henry J. Schwarz, Jr., M.D.*, 54 FR 16,422 (1989).

In this case, although the Government argued that it had established a *prima facie* case under all five factors, the Deputy Administrator agrees with Judge Tenney, and finds that a *prima facie* case has only been established under factors 2 through 5. As to factor one, ''recommendation of the appropriate State licensing board,'' the Dental Board restored all rights and privileges associated with the Respondent's dental license in 1993. Since the record contains no adverse recommendations from the ''appropriate State licensing board or professional disciplinary authority,'' the Deputy Administrator agrees with Judge Tenney and finds that the Government has not established a *prima facie* case under factor one.

As to factor two, ''the applicant's experience in dispensing * * * controlled substances,'' the Deputy Administrator again agrees with Judge Tenney that the Government has established a *prima facie* case under factor two. First, the evidence of the 1982 Didrex prescriptions demonstrated that the Respondent, lacking familiarity with that substance's characteristics, prescribed Didrex to a patient merely at her request, without a legitimate medical purpose, and outside the regular course of his practice. Further, the evidence of the Respondent's participation in May 1986, in the distribution of cocaine and in a conspiracy to distribute cocaine, contributed to the establishment of the Government's case under factor two.

The Deputy Administrator also agrees with Judge Tenny's finding that the Government established a *prima facie* case under factors three and four, ''the applicant's conviction record under Federal or State laws relating to the * * * distribution * * * of controlled substances,'' and ''[c]ompliance with applicable State, Federal * * * laws relating to controlled substances,'' for the Respondent had pled *nolo contendere* to State charges involving Didrex, a controlled substance, and he had pled guilty to two Federal charges involving the distribution of cocaine. Further, the Respondent's conduct underlying these two convictions demonstrate his participation in illegal activities, thus violating applicable State and Federal laws relating to controlled substances.

Finally, the Deputy Administrator agrees with Judge Tenney's finding as to the relevancy of the Respondent's testimony before him concerning the cocaine incident and factor five, ''other conduct which may threaten the public health or safety.'' Specifically, the Deputy Administrator finds that the Respondent's lack of candor in his 1994 testimony as to the full extent of his involvement in the cocaine incident creates concern about his future conduct. The record discloses that the Respondent was quite involved in the cocaine distribution and conspiracy, as evidenced by the stipulated testimony of the undercover Agent involved first-hand in the incident, and by the fact that the Respondent pled guilty to the charges of conspiracy to distribute cocaine and unlawfully distributing cocaine. His failure to take responsibility for his past misconduct causes concern about his commitment to protecting the ''public health and safety'' in the future, should he be granted a DEA Certificate of Registration.

However, the Government's establishment of its case does not end the inquiry, for the Respondent has submitted extensive evidence of his rehabilitative efforts. The issue then becomes whether the Respondent has offered sufficient proof of rehabilitation to mitigate the egregious conduct established by the Government, such that the DEA can now find that granting the Respondent's application for a Certificate of Registration would be consistent with the ''public interest.'' See *Shatz* v. *United States Dept. of Justice*, 873 F.2d 1089, 1091 (8th Cir. 1989) (holding that, in a case such as this, the Respondent has the burden to prove rehabilitation).

Again, the Deputy Administrator agrees with Judge Tenny's findings as to the weight to be given the Respondent's rehabilitative evidence, for the Respondent's evidence concerning his rehabilitative efforts, to include his commitment to performing good deeds through a variety of Christian ministries, was credible. However, the Respondent's November 1994 testimony concerning his conduct surrounding the May 1, 1986, cocaine transaction was indeed troubling, for despite the plea and conviction, the Respondent continued to minimize his involvement and resulting responsibility for the conspiracy and cocaine distribution incidents. As Judge Tenny noted, ''the Respondent's inability to be completely candid at the hearing causes sufficient doubt as to whether he is fully rehabilitated.'' Further, the Deputy Administrator also notes the lack of evidence of continuing education relevant to controlled substances, evidence which would have been helpful in light of the Respondent's experience in prescribing Didrex without understanding its characteristics.

Therefore, the preponderance of the evidence supports denial of the Respondent's application at this time. If the Respondent reapplies and submits evidence of his continuing rehabilitative efforts, such as evidence of completion of educational courses at least partially focused upon the handling of controlled substances, then his application may receive more favorable consideration. See, e.g., *Shatz*, 873 F.2d at 1092 (suggesting that ''careful consideration'' be given to any future application for registration, and in particular, to ''any additional evidence in support of [a] claim of rehabilitation''); *Sokoloff* v. *Saxbe*, 501 F.2d 571, 576 (2d Cir. 1974) (stating that ''permanent revocation'' of a DEA Certificate of Registration may be ''unduly harsh'')

Therefore, the Deputy Administrator finds that the public interest is best served by denying the Respondent's application 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 C.F.R. 0.100(b) and 0.104, hereby orders that the Respondent's application for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective January 8, 1996.

Dated: November 30, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–29771 Filed 12–6–95; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 93–39]

William F. Skinner, M.D., Continuation of Registration

On April 5, 1993, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William F. Skinner, M.D., (Respondent) of Santa Monica, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AS7287534, under 21 U.S.C. 824(a)(4), and deny any pending applications under 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

(1) During the period April 1987 through November 1988, the Respondent prescribed, administered, and dispensed excessive amounts of controlled substances to a single patient, including Demerol, Dilaudid, Xanax, Ativan, Percodan, Tylenol with Codeine, Valium, Percocet, Methadone, and Doriden, without a legitimate medical purpose and while not acting in the usual course of professional practice; and

(2) During the same time period, the Respondent prescribed narcotic drugs to the same narcotic dependent patient for the purpose of maintenance treatment, and engaged in detoxification treatment of the patient without holding a separate DEA registration to conduct a narcotic treatment program.

On April 27, 1993, the Respondent, through counsel, filed a timely request for a hearing. On February 23, 1994, the case was consolidated for hearing with *Michael S. Gottlieb, M.D.*, Docket No. 93–53, and *Michael J. Roth, M.D.*, Docket No. 94–10. Following prehearing procedures, a hearing was held in Los Angeles, California, on March 29–30 and May 10–12, 1994, before Administrative Law Judge Paul A. Tenney. At the hearing, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On October 17, 1994, Judge Tenney issued his Findings of Fact, Conclusions of Law, and Recommended Ruling, finding that Respondent's registration was not inconsistent with the public interest, and recommending that no action be taken against Respondent, Dr. Skinner. On November 8, 1994, the Government filed exceptions to Judge Tenney's opinion, and on December 7, 1994, the Respondent filed his response to the Government's exceptions. On December 12, 1994, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the filings of the parties and the record in its entirety, 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 of Judge Tenney, 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 the Respondent is licensed to practice as a physician in the State of California, and that he had served as the medical director of the St. John's Hospital Chemical Dependency Center from 1981