

from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period.

Further, the statute defines "maintenance treatment" as the dispensing, "for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs." 21 U.S.C. 802(29). However, the applicable implementing regulation states in pertinent part:

This section is not intended to impose any limitations on a physician \* \* \* to administer or dispense narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction, or \* \* \* to persons with intractable pain in which no relief or cure is possible or none has been found after reasonable efforts.

21 CFR 1306.07(c).

The preponderance of the evidence supports a finding that the Respondent was tapering the drugs prescribed to Patient A after acute pain resolved. Dr. Ling, as well as others, testified that such tapering would be appropriate under such circumstances. Further, the record does not establish that Patient A experienced "adverse physiological or psychological effects incident to withdrawal" nor that, in fact, Patient A exhibited behavior consistent with the finding that she was an "addict." Therefore, the Deputy Administrator agrees with Judge Tenney, that the "Respondent made a reasonable effort to manage the patient's intractable pain and limit the patient's use of controlled substances in terms of treatment of [Patient A's] other medical conditions, and did not prescribe controlled substances to her primarily to wean her from dependence on narcotic analgesics." Thus, the Respondent was not maintaining Patient A's addiction nor detoxifying Patient A without a prior registration.

Finally, the Government argued that from March 1986 through October 1988, the Respondent failed to keep adequate medical records of his treatment of Patient A, and thus, his prescriptions were not issued for a legitimate medical purpose nor in the usual course of professional practice in violation of 21 CFR 1306.04, and California Health and Safety Code Sections 11168, 11190, and 11191. Yet the Government failed to cite to any specific inadequacies of the Respondent's records in either their proposed findings of fact or in the exceptions filed to the Administrative Law Judge's recommended decision.

Pursuant to 21 CFR 1304.03(c), a "registered individual practitioner is not

required to keep records of controlled substances in Schedules II, III, IV, and V which are prescribed in the lawful course of professional practice, unless such substances are prescribed in the course of maintenance or detoxification treatment of an individual." Further, a "registered individual practitioner is not required to keep records of controlled substances listed in [Schedules II through V] which are administered in the lawful course of professional practice unless the practitioner regularly engaged in the dispensing or administering of controlled substances and charges patients, either separately or together with charges for other professional services, for substances so dispensed or administered." 21 CFR 1304.03(d). Here, the Respondent prescribed controlled substances to Patient A, but the record does not indicate that he "regularly dispensed" those substances to her nor that he prescribed them "in the course of maintenance or detoxification treatment." The Deputy Administrator thus agrees with Judge Tenney's conclusion that "the Government failed to prove that Respondent kept inadequate records. No violation of the Federal statute is found."

As for violations of State law, California Health and Safety Code Section 11190 provides that a practitioner who issues a prescription of a controlled substance classified in Schedule II must make a record for each transaction which shows the name and address of the patient, the date of the transaction, the "character, including the name and strength, and quantity of controlled substances involved", and the pathology and purpose for which the prescription was issued. The Government did not cite to any specific instances where the Respondent failed to provide this required information. Thus, after reviewing the record, the Deputy Administrator agrees with Judge Tenney's conclusion that the "DEA did not prove that there were recordkeeping violations by a preponderance of the evidence."

As to factor five, "such other conduct which may threaten the public health and safety," the Government argued that the Respondent's pattern of prescribing to Patient A caused a threat to the public health and safety. As Judge Tenney noted, this is an unusual case for it involved the Respondent's prescribing practices for a single patient, and no evidence was provided to show a pattern of excessive prescribing to any other patients. Further, as to that single patient, the Deputy Administrator concurs with Judge Tenney's finding that the "overriding purpose of [the]

Respondent's prescribing practices was the treatment of Patient A's pain," a legitimate medical purpose. In the balance, the Deputy Administrator finds that it is in the public interest for the Respondent to retain his DEA Certificate of Registration.

However, the Deputy Administrator notes with concern the large quantities of controlled substances prescribed to Patient A over an extended period of time. Yet the conflicting expert opinion evidence presented leads to the conclusion that the medical community has not reached a consensus as to the appropriate level of prescribing of controlled substances in the treatment of chronic pain patients. Given this dispute, the Deputy Administrator is reluctant to conclude that the Respondent's prescribing of controlled substances to Patient A lacked a legitimate medical purpose or was outside the usual course of professional practice. It remains the role of the treating physician to make medical treatment decisions consistent with a medical standard of care and the dictates of the Federal and State law. Here, the preponderance of the evidence established that the Respondent so acted.

Therefore, the Deputy Administrator finds that the public interest is best served by taking no action with respect to the continued registration of the Respondent. 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 DEA Certificate of Registration AS7287534, issued to William F. Skinner, M.D., be, and it hereby is, continued, and that any pending applications be, and they hereby are, granted. This order is effective January 8, 1996.

Dated: November 30, 1995.

Stephen H. Greene,

*Deputy Administrator.*

[FR Doc. 95-29770 Filed 12-6-95; 8:45 am]

BILLING CODE 4410-09-M

---

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration, Office of Records Administration.

**ACTION:** Notice of availability of proposed records schedules; request for comments.

---

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Request for copies must be received in writing on or before January 22, 1996. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

**ADDRESSES:** Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

**SUPPLEMENTARY INFORMATION:** Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons

directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

#### Schedules Pending

1. Department of Agriculture, Agricultural Research Service (N1-310-95-2). Background records and input and source documents for applied human nutrition projects.

2. Department of Energy, Superconducting Super Collider Project Office (N1-434-95-4). Administrative, routine facilities, and interim construction records associated with the Superconducting Super Collider Project.

3. Department of Health and Human Services, Indian Health Service (N1-513-94-1). Comprehensive schedule of major electronic data systems.

4. Department of the Interior, Bureau of Reclamation (N1-115-94-5). General administrative records pertaining to economics, repayment, and water sales and rights.

5. Department of the Interior, Bureau of Reclamation (N1-115-94-6). General administrative records pertaining to land operations and realty functions.

6. Department of Justice, Immigration and Naturalization Service (N1-85-96-1). Service Center receipt files.

7. Department of State, Bureau of Economic and Business Affairs (N1-59-94-36). Duplicative records maintained in all bureau offices.

8. Department of State, Bureau of Diplomatic Security (N1-59-94-43). Routine, facilitative, and duplicative records. Policy records are scheduled as permanent.

9. The Administrative Conference of the United States (N1-451-96-1). Unrecoverable electronic roster and unidentified/uncaptioned still photographs.

10. Board of Governors of the Federal Reserve System (N1-82-95-1). Comprehensive schedule for the Federal Open Market Committee.

11. Bureau of Alcohol, Tobacco, and Firearms (N1-436-96-1). Requisition requests for firearms explosives forms.

12. Pension Benefit Guaranty Corporation (N1-465-94-1). Special project or task force case files that are non-precedent in nature.

13. Tennessee Valley Authority (N1-142-93-13). Reduction in retention

period for employee rehabilitation case files.

14. Tennessee Valley Authority (N1-142-93-17). Employee service surveys and suggestions.

15. Tennessee Valley Authority (N1-142-95-2). Heavy equipment contract files.

16. Tennessee Valley Authority (N1-142-95-7). Oscillogram and transient recorder record created in monitoring power generation equipment and facilities.

Dated: November 28, 1995.

James W. Moore,

*Assistant Archivist for Records Administration.*

[FR Doc. 95-29854 Filed 12-6-95; 8:45 am]

BILLING CODE 7515-01-M

---

## NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

### National Endowment for the Arts; Challenge and Advancement Teleconference

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a teleconference of the Challenge and Advancement Advisory Panel (Design Review Section) to the National Council on the Arts will occur from 1 p.m. to 3 p.m. on December 12, 1995 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman on June 22, 1995 these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: December 1, 1995.

Yvonne M. Sabine,

*Director, Council & Panel Operations, National Endowment for the Arts.*

[FR Doc. 95-29793 Filed 12-6-95; 8:45 am]

BILLING CODE 7537-01-M