(2) The title of the form/collection. Postgraduate Evaluation of the FBI National Academy Survey Booklet.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form Number: None. Federal Bureau of Investigation, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: State, Local or Tribal Governments. Other: None. This is program evaluation data collected to verify the appropriateness of courses offered at the FBI Academy to state and local law enforcement officers. Respondents are graduates of the FBI National Academy Program.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. 907 responses per year at .45 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection. 680 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: January 30, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–2219 Filed 2–1–96; 8:45 am]

BILLING CODE 4410–18–M

Drug Enforcement Administration

[Docket No. 95–39]

Edward L.C. Broomes, M.D.; Revocation of Registration

On March 27, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Edward L.C. Broomes, M.D., (Respondent) of East Chicago, Indiana, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AB2703925, under 21 U.S.C. 824(a)(4), and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f). Specifically, the Order to Show Cause alleged that:

1. Information provided to DEA and the Indiana State Police by several confidential informants indicates that since 1989, [the Respondent has] written prescriptions for controlled substances to numerous individuals for other than legitimate medical purposes. These informants stated that a group headed by a James Marshall regularly drives to East Chicago, Indiana, from Pennsylvania, provides names to [the Respondent] and/or [his] employees to be used on prescriptions, obtains the prescriptions from [his] medical office, fills the prescriptions at specific pharmacies in Gary, Indiana, and sells the controlled substances in Pennsylvania. The informants identified the drugs obtained as Desoxyn and Percocet, both Schedule II controlled substances. The informants also identified some of the names used by James Marshall in this scheme as Houston Abbott, David Abbott, Michael Johnson, Jason Brown, Beverly Abbott, and Patricia Armstrong.

2. [The Respondent] continued to write prescriptions for controlled substances in the names of at least two (2) individuals, Sean Abbott and James Quisenberry, for several years after their deaths.

3. Review of triplicate prescription records maintained by the State of Indiana indicates that between September 1989 and April 1994, [the Respondent] wrote prescriptions totalling over 6,600 dosage units of Schedule II controlled substances to the six (6) individuals identified by the informants. Many of these individuals obtained prescriptions for Desoxyn at least once a month for a period of over three (3) years.

4. [The Respondent] prescribed Desoxyn and Percocet on a regular basis to at least one (1) drug-addicted individual.

5. On December 22, 1992, eight (8) prescriptions issued by [the Respondent] were filled at a Gary, Indiana, drug store. Each of the prescriptions was for 400 dosage units of Dilaudid. None of the prescriptions contained a date of issue as required by 21 CFR 1306.05.

6. Many prescriptions written by [the Respondent] listed nonexistent addresses for the patients. For example, none of the addresses provided on the eight (8) prescriptions listed in the preceding paragraph was in existence as of October 1994. In addition, between January 1, 1993 and July 31, 1993, [the Respondent] wrote at least sixteen (16) prescriptions for controlled substances, including Percocet and Desoxyn, for James Marshall. The address provided on each of the prescriptions, 4930 Alden in East Chicago, Indiana, does not exist. Information provided by a confidential informant and corroborated by the Pennsylvania Bureau of Motor Vehicles indicates that James Marshall is a resident of Aliquippa, Pennsylvania.

7. On October 4, 1994, investigators executed a federal search warrant at [the Respondent's] office. The following violations were noted:

a. [The Respondent] had presigned controlled substance prescriptions for James Marshall in violation of 21 CFR 1306.05(a).

b. Patient files indicated that [the Respondent had] maintained narcotic addicts on methadone without obtaining a separate registration in violation of 21 CFR 1301.22.

c. Patient files revealed that [the Respondent had] prescribed Desoxyn, a Schedule II controlled substance, to treat obesity, in violation of Indiana law.

On May 30, 1995, the Respondent filed a reply to the show cause order, but he did not indicate whether he was requesting a hearing. On May 31, 1995, the Hearing Clerk sent a letter to the Respondent, advising him that he had until June 14, 1995, to request a hearing, and on June 30, 1995, Chief Judge Mary Ellen Bittner issued an order terminating proceedings before her, noting that the Respondent had failed to request a hearing by that date. Accordingly, the Deputy Administrator now enters his final order in this matter pursuant to 21 CFR 1301.54(e) and 1301.57, without a hearing and based on the investigative file and the written Reply submitted by the Respondent.

The Deputy Administrator finds that the Respondent is licensed to practice medicine in Indiana, and he has a Certificate of Registration with the DEA as a practitioner in Schedules II through V. The Respondent's registered location is the Lakeside Medical Clinic in East Chicago, Indiana. In February 1992, an investigation was initiated by the Indiana State Police because the Respondent had purportedly authorized an unusually large number of Schedule II controlled substance prescriptions according to information provided by the Indiana Health and Professions Bureau. DEA was asked to assist in this investigation, and it was found that the Respondent had issued prescriptions for Schedule II substances as late as April 1991, to an individual who had died on December 9, 1988. In his Reply, the Respondent wrote: ''Attention has been drawn to the fact that two of my patients were receiving prescriptions of Ritalin although they had been dead for some time. I did not know of the demise until reading of it in the letter.''

On October 5, 1994, a federal search warrant was executed at the Lakeside Medical Clinic, and presigned controlled substance prescriptions were found. Further, patient files indicated that the Respondent had maintained narcotic addicts on methadone, even though he was not registered to participate in such a program.

Further, two of the clinic's employees, as well as the Respondent, were interviewed during the search of the Respondent's clinic. The interviewing officer noted that the Respondent sometimes talked about matters unrelated to his questioning. Further, he was concerned when the Respondent appeared to fall asleep during the interview, although the Respondent assured him that he wished to continue, and the interview lasted only approximately one hour. The Respondent stated that during 1994 he had been in the hospital in January, August, and September, when he had remained for about 10 or 11 days. Further, the Respondent admitted to prescribing controlled substances to a known drug addict, stating that he

would rather have her obtain such substances from him than from someone ''on the street.'' The Respondent also admitted that he had prescribed Desoxyn for appetite control. Desoxyn is a brand name for a product containing methamphetamine, a Schedule II controlled substance, and according to the Physicians' Desk Reference, if it is prescribed for treatment of obesity, it should be used on a short-term basis. Yet a survey of the Respondent's prescriptions revealed that he had issued prescriptions for Desoxyn to individuals for a period of time in excess of three years.

A colleague of the Respondent's (Colleague), whose medical license was then under probation in Indiana and who was under the Respondent's supervision, was also interviewed. He stated that patients were taken into the Respondent's office when he could hardly walk, and that it was unknown what type of examination, if any, was conducted on these patients. in the Colleague's opinion, the Respondent was no longer competent to practice medicine and was a danger to his patients.

Another of the Respondent's employees was interviewed, and she stated that a box of approximately 40 patient records were segregated in the file room, and office personnel referred to these files as the ''druggie files.'' She stated that these patients came to the clinic solely to get controlled substance prescriptions, specifically Schedule II controlled substance prescriptions, for which they paid an additional fee. The investigator interviewed another of the Respondent's employees who corroborated this information. This second employee also reported that the clinic had had several thefts of entire stock bottles of controlled substances, which were in the clinic to dispense to patients. However, these thefts had not been reported to DEA, State, or local police.

Subsequently, investigators interviewed cooperating individuals who had received controlled substance prescriptions from the Respondent. Two such individuals reported that on several occasions they had been given prescriptions for Schedule II substances of their choice, and that no physical examinations had been conducted. After filling these prescriptions, they had given the substances to James Marshall, who paid them for their participation in his scheme. The individuals were told by Mr. Marshall that he sold these controlled substances to individuals in another State. On one occasions, an individual assisting Mr. Marshall was told to choose a local address from the telephone book in the Respondent's office and to give that address for the prescription. Following up on this information, investigators noted that in numerous instances the addresses appearing on the multiple prescription forms signed by the Respondent for Schedule II controlled substances, when investigated, did not exist. The Respondent did not address these allegations in his Reply.

In his Reply, the Respondent wrote that he was 81 years old, and that he generally denied the allegations in the show cause order. Although he described in general his treatment practices, the Respondent did not factually refute specific allegations in the order. He disputed the evidence providing a numerical analysis of his prescribing practices, but he did not rebut the specific allegations concerning the conduct by James Marshall or his associates. He merely denied that such conduct could occur, given his general office procedures. He did not deny (1) prescribing Desoxyn to treat obesity, (2) having pre-signed controlled substance prescriptions for James Marshall in his clinic, or (3) prescribing methadone to narcotic addicted patients.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke the Respondent's DEA Certificate of Registration and deny any pending applications, if he determines that the continued 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 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).

In this case, factors two, four, and five are relevant in determining whether the Respondent's continued registration would be inconsistent with the public interest. As to factor two, the Respondent's ''experience in dispensing * * * controlled substances,'' the Deputy Administrator has previously found that a prescription for a controlled substance ''must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a); see also Harlan J. Borcherding, D.O, 60 FR 28796, 28798 (1995). Here, the Respondent issued prescriptions for Schedule II substances to deceased individuals, showing a blatant disregard for the requirement that controlled substance prescriptions be issued for a legitimate medical purpose. Further, the investigative file contains evidence that the Respondent issued controlled substance prescriptions to individuals upon their request, to include the substance of their request, without performing any physical examinations or other clinical tests. He also accepted additional payment for these prescriptions. The Deputy Administrator has previously found that prescriptions issued under such circumstances were not for a legitimate medical purpose. Ibid.

As to factor four, the Respondent's ''[c]ompliance with applicable State, Federal, or local laws relating to controlled substances,'' Indiana passed a statute in 1988 which made it unlawful to prescribe controlled substances ''to any person for purposes of weight reduction or for control in the treatment of obesity.'' See Indiana Code 25–22.5–2–7. However, the Respondent admitted that he had prescribed Desoxyn, a Schedule II controlled substance, as part of his treatment for his obese patients, and the evidence demonstrated that he issued such prescriptions through 1994. Further, a separate DEA registration is required to treat drug addicted patients with methadone, but the Respondent engaged in such treatment without obtaining the required registration, in violation of the Controlled Substances Act and its implementing regulations. See 21 U.S.C. 823(g); 21 CFR 1301.22. Also, the Respondent failed to report to the DEA the theft of large quantities of controlled substances from his clinic, despite the requirement to do so. See 21 CFR 1301.76(b). Finally, he kept pre-signed controlled substance prescription forms prepared for James Marshall. Such practices violate 21 CFR 1306.05(a), which states in relevant part:

''(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued * * * [and] the prescribing practitioner is responsible in case the prescription

does not conform in all essential respects to the law and regulations.''

As to factor five, ''[s]uch other conduct which may threaten the public health or safety,'' the Deputy Administrator gives some weight to the Colleague's opinion concerning the danger the Respondent's practices creates for his patients. Although the Colleague had also experienced professional difficulties, his observations as to the Respondent's impaired abilities to treat his patients were corroborated by other office personnel, by interviewing investigators, and by the Respondent himself in discussing his health problems in 1994. Such impairment, coupled with his past prescribing practices, creates doubt as to the Respondent's ability to comply with DEA regulations in issuing prescriptions for controlled substances. Also, his failure to provide any basis for the Deputy Administrator to believe that his professional practices would be altered in the future, weighs heavily in favor of revoking the Respondent's 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 824, and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AB2703925, previously issued to Edward L.C. Broomes, 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 March 4, 1996.

Dated: January 29, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–2170 Filed 2–1–96; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 94–35]

Therial L. Bynum, M.D.; Revocation of Registration

On March 11, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Therial L. Bynum, M.D., (Respondent) of Murfreesboro, Tennessee, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificates of Registration, BB2042048 and AB8535087, under 21 U.S.C. 824(a), and deny any pending applications for renewal of such registrations 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:

> [The Respondent] materially falsified required applications as set forth in 21 U.S.C. 824(a)(1); [the Respondent had] been convicted of a felony relating to controlled substances as set forth in 21 U.S.C. 824(a)(2); [the Respondent had] had a state license suspended or revoked by competent State authority and [is] no longer authorized to handle controlled substances in one of the states that [he is] operating as set forth in 21 U.S.C. 824(a)(3); and [the Respondent has] committed acts which render [his] registrations inconsistent with the public interest as set forth in 21 U.S.C. 824(a)(4).

By letter dated April 8, 1994, the Respondent replied to the show cause order, requesting a hearing. On May 16, 1994, Government counsel filed a prehearing statement, and on June 24, 1994, the Respondent filed his prehearing statement. However, on May 4, 1995, Administrative Law Judge Paul A. Tenney issued an order, Notice of Cancellation of Hearing, noting that the Respondent had failed to reply to several of his previous orders, notifying the Respondent that his inaction was being deemed a waiver of his hearing right and an implied withdrawal of his request for a hearing, and giving the Respondent until May 31, 1995, to request reconsiderations of the matter. However, the Respondent failed to reply, and by order dated June 1, 1995, Judge Tenney closed the case file and removed this matter from his active docket. By letter also dated June 1, 1995, Judge Tenney informed the Deputy Administrator of his actions, and the case file was transmitted for issuance of a final order.

The Deputy Administrator has considered the prehearing statements of the parties and the investigative file. Accordingly, he now enters his final order in this matter, without a hearing and based upon this record, pursuant to 21 C.F.R. 1301.54(e) and 1301.57.

Initially, the Deputy Administrator finds that the Respondent has two active DEA Certificates of Registration as a practitioner: BB2042048 for his practice in Murfreesboro, Tennessee, and AB8535087, for his practice in Omaha, Nebraska.

On November 30, 1988, the Respondent was convicted in the Circuit Court, Cook County, State of Illinois, of conspiracy with intent to commit the offense of ''[k]ickbacks in the amount of more than $10,000.'' Specifically, the Respondent, then a Medicaid provider, acted to accept remuneration from an individual representing a laboratory which was also a Medicaid provider, in exchange for referring specimens to this laboratory. Subsequently, effective April 26, 1991, the Department of Professional Regulation, State of Illinois, indefinitely suspended the Respondent's state medical license. Although the Respondent, in his prehearing statement, wrote that he had appealed this suspension, he did not submit any documentation reflecting the appeal, and the investigative record does not contain any such record.

On June 19, 1991, the Respondent submitted an application to renew his Nebraska DEA Certificate of Registration, and in response to a question on that application, indicated that he had never had a state professional license revoked, suspended, restricted or denied, when, in fact, his Illinois medical license had been suspended effective April 26, 1991. That registration was renewed June 27, 1991. In his prehearing statement, the Respondent wrote that he was living in Tennessee at the time he submitted his renewal application, and that he had not received notification of the Illinois action, although he had been represented by legal counsel before that forum.

In March of 1992, the Division of Health Related Boards, Department of Health, State of Tennessee, suspended the Respondent's medical license, and on June 4, 1992, the Tennessee Board of Medical Examiners (Tennessee Board) revoked the Respondent's state medical license. The Tennessee Board found that the Respondent had been treating patients with a ''secret drug that [he] claimed can 'cure' AIDS.'' He sold this '' 'drug' to patients for an initial payment of $10,000.00, with additional payments of this magnitute (sic.) for treatment of the disease at later stages. * * * Some patients were directed to stop taking AZT while taking the 'drug.' * * * The Respondent[] made representations about the effectiveness of [his] AIDS 'drug' to induce friends and relatives of the AIDS victims to pay for the 'drug.' '' During the course of an undercover operation, a dose of this ''drug'' was obtained and analyzed, and the Tennessee Board found that ''[t]he drug does not cure AIDS. There is no known drug which will have the effect on AIDS that the Respondent[] claim[s] for [his] drug. * * * Precluding an AIDS victim from taking AZT would have a harmful effect on that patient's health. Furthermore, the 'drug' contains medications which could be harmful to the immune system of AIDS patients.'' The Tennessee Board concluded that the Respondent's acts had violated the Tennessee Medical Practice Act. The Respondent appealed the Tennessee Board's action, and the Chancery Court