

Certificate of Registration AA9568215, under 21 U.S.C. 824(a)(3), and deny any pending applications of registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Oregon. The order also notified Dr. Anderson that should no request for a hearing be filed within 30 days of receipt, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on August 18, 1997. No request for a hearing or any other reply was received by the DEA from Dr. Anderson or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have past since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Anderson is deemed to have waived his hearing right. After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on May 20, 1994, the Oregon Board of Dentistry entered into a Consent Order with Dr. Anderson, whereby Dr. Anderson agreed to resign his license to practice dentistry in Oregon and to permanently prohibited from ever applying for license in that state. As a result, the Acting Deputy Administrator finds that Dr. Anderson is not currently authorized to practice dentistry in the State of Oregon. The Acting Deputy Administrator further finds it reasonable to infer that Dr. Anderson is also not authorized to handle controlled substances in the State of Oregon, where he is currently registered with DEA to handle controlled substances.

The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D., 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

Here it is clear that Dr. Anderson is not currently authorized to practice dentistry or handle controlled substances in the State of Oregon. Therefore, Dr. Anderson is not entitled to DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AA9568215, previously issued to Gerald W. Anderson, D.D.S., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective April 9, 1998.

Dated: March 3, 1998.

**Donnie R. Marshall,**

*Acting Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 98-3]

### Dong HA Chung, M.D.; Revocation of Registration

On October 8, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Dong Ha Chung, M.D. (Respondent), of Anderson, South Carolina. The Order to Show Cause notified him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BC0373465, and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f) and 824(a)(3) and (a)(5). The Order to Show Cause alleged that Respondent is not currently authorized to handle controlled substances in the State of South Carolina, and he has been excluded by the United States Department of Health and Human Services from participating in the Medicare, Medicaid and any state health care programs for a period of ten years.

On November 5, 1997, Respondent, through counsel, filed a request for a hearing, and the matter was docketed before Administrative Law Judge Gail A. Randall. On November 6, 1997, Judge Randall issued an Order for Prehearing Statements. On December 1, 1997, the Government filed a Motion for Summary Disposition and Motion to Stay Proceedings, alleging that Respondent is currently registered with DEA to handle controlled substances in South Carolina, however he is currently without state authority to handle controlled substances in South Carolina.

On December 16, 1997, Respondent filed a Memorandum in Opposition of Government's Motion for Summary Disposition arguing that Respondent's state controlled substances license was canceled based upon the suspension of his medical license, which has since been reinstated. Respondent asserts that he is currently seeking reinstatement of his controlled substances privileges in South Carolina, but "a scheduled hearing (on the reinstatement) was postponed and for a reason not yet known, it has not been rescheduled." Respondent does not deny that he is not currently authorized to handle controlled substances in South Carolina.

On January 7, 1998, Judge Randall issued her Opinion and Recommended Ruling, finding that Respondent lacks authorization to handle controlled substances in the State of South Carolina; granting the Government's Motion for Summary Disposition; and recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her opinion, and on February 9, 1998, Judge Randall transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting 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 Acting Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Acting Deputy Administrator finds that on July 12, 1996, the South Carolina Department of Health and Environmental Control issued a Notice of Cancellation of Controlled Substances Registration, canceling Respondent's controlled substances registration in South Carolina. Respondent argues that the cancellation of his state controlled substances privileges was based upon the suspension of his medical license in South Carolina, and that his state medical license has since been reinstated. However, Respondent does not dispute that he is not currently authorized to handle controlled substances in the State of South Carolina. Therefore, the Acting Deputy Administrator finds that Respondent is not currently authorized to handle controlled substances in South Carolina, the state in which he is registered with DEA.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle

controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21); 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D. 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

Here, it is clear that Respondent is not licensed to handle controlled substances in South Carolina. Since Respondent lacks this state authority, he is not entitled to a DEA registration in that state.

In light of the above, Judge Randall properly granted the Government's Motion for Summary Disposition. The parties did not dispute the fact that Respondent is currently unauthorized to handle controlled substances in South Carolina. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Phillip E. Kirk, M.D., 48 FR 32,887 (1983), aff'd sub non Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984); NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO, 549 F.2d 634 (9th Cir. 1997); United States v. Consolidated Mines & Smelting Co., 44 F.2d 432 (9th Cir. 1971).

Since DEA does not have the statutory authority to maintain Respondent's DEA registration because he is not currently authorized to handle controlled substances in South Carolina, the Acting Deputy Administrator concludes that it is unnecessary to determine whether Respondent's DEA registration should be revoked based upon his exclusion by the United States Department of Health and Human Services from participating in the Medicare, Medicaid and any state health care programs.

Accordingly, the Acting 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 BC0373465, previously issued to Dong Ha Chung, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective April 9, 1998.

Dated: March 3, 1998.

**Donnie R. Marshall,**

*Acting Deputy Administrator.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review; Comment Request

March 5, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen (202) 219-5096 ext. 143 or by E-Mail to Owen-Todd@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219-4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday-Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Employment and Training Administration.

*Title:* Center for Employment and Training (CET) 24 Month Follow-up Study.

*OMB Number:* 1205-ONEW (New Collection).

*Frequency:* One-time.

*Affected Public:* Individuals or households.

*Number of Respondents:* 1,875.

*Estimated Time Per Respondent:* 37 minutes.

*Total Burden Hours:* 925 hours.

*Total Annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* 0.

*Description:* The purpose of this data collection is to evaluate the CET model in the selected sites to assess whether the model can be replicated outside of San Jose, and whether the replication sites have similarly positive employment impacts on out-of-school youth.

*Agency:* Employment Standards Administration.

*Title:* Claim for Compensation by Dependents Information Reports.

*OMB Number:* 1215-0155 (extension).

*Frequency:* Forms CA-5, CA-5b, CA-1615, CA-1093, CA-1074, and CA-1085 are required once. Forms CA-1617 and CA-1618 are required semiannually. Form CA-1031 is sent out on occasion, but no more than once a year.

*Affected Public:* Individuals or households.

*Number of Respondents:* 3,615.

*Estimated Time Per Respondent:* It is estimated to take 90 minutes for respondents to complete forms CA-5 and CA-5b; 60 minutes for form CA-1074; 45 minutes for form CA-1085; 30 minutes for forms CA-1615, CA-1617, CA-1093, CA-1618, and 15 minutes for CA-1031.

*Total Burden Hours:* 1,835 hours.

*Total Annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* \$1,157.00.

*Description:* The forms in this clearance request are used by Federal employees and their dependents to claim benefits, prove continued eligibility for benefits, and to show entitlement to the remaining compensation of a deceased beneficiary under the Federal Employees' Compensation Act. There are nine forms in this clearance request; they are the CA-5; CA-5b; CA-1031; CA-1085; CA-1093; CA-1615, CA-1617; CA-1618, and CA-1074.

**Todd R. Owen,**

*Departmental Clearance Officer.*

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