The proposed Consent Decree may be examined at the Office of the United States Attorney, District of New Hampshire, 55 Pleasant Street, Concord, New Hampshire 03301, at the Region I office of the Environmental Protection Agency, One Congress St., Boston, Massachusetts 02203, and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $62.25, payable to the Consent Decree Library for the 25 cent per page reproduction cost.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 98–30970 Filed 11–18–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amended Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act

Notice is hereby given that on October 30, 1998, the United States lodged a proposed amended consent decree, with the United States District Court for the Northern District of Illinois, in *United States, et al.* v. *the City of Rockford, Illinois,* Civil No. 98 C 50026, under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9601 *et seq.* The Amended Consent Decree resolves certain claims of the United States and the State of Illinois against the City of Rockford, Illinois, under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. 9606(a) and 9607(a) at the Southeast Rockford Groundwater Contamination (''Site'') located in Rockford, Winnebago County, Illinois. Under the proposed Amended Consent Decree, the City of Rockford reaffirms the term and provisions of the original Consent Decree entered by the Court on or about April 9, 1998 (to perform the remedial action selected by U.S. EPA in its September 30, 1995, Record of Decision), and the Plaintiffs will be paid approximately $14.7 million. The Amended Consent Decree resolves claims of Plaintiffs against the City of Rockford, as set forth in the Amended Consent Decree, and resolves potential claims the Plaintiffs may have against the Covenant Beneficiaries, as set forth in the Amended Consent Decree. The City of Rockford and Covenant Beneficiaries will receive the covenants not to sue and contribution protection specified in the Amended Consent Decree. The Department of Justice also provides Notice that under section 7003(d) of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973(d), the public may request an opportunity for a public meeting at which time they may offer comment.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *United States, et al.* v. *The City of Rockford, Illinois,* (Civil No. 98 C 50026, N.D. Ill.), D.J. Ref. No. 90–11–3–945. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Illinois, Western Division, Rockford, Illinois; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, DC 20005, telephone No. (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $13.75 for the Decree, payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–30969 Filed 11–18–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–4]

Cuong Trong Tran, M.D.; Denial of Application

On October 13, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Cuong Trong Tran, M.D. (Respondent), of Alexandria, Virginia, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason that such registration would be inconsistent with the public interest.

By letter dated November 13, 1995, Respondent filed a request for a hearing, and following prehearing procedures, a hearing was held in Arlington, Virginia on June 3, 4 and 17, 1996, before Administrative Law Judge Mary Ellen Bittner. At the hearing both parties called witnesses to testify and introduced documentary evidence. After the hearing, the Government submitted proposed findings of fact, conclusions of law and argument, and Respondent filed a letter in reply to the Government's submission. On January 13, 1998, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's application for a DEA Certificate of Registration should be denied. On April 24, 1998, Respondent filed exceptions to Judge Bittner's Opinion and Recommended Ruling, and subsequently, Government counsel filed a response to Respondent's exceptions. Thereafter, on May 14 and 21, 1998, Judge Bittner 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 Ruling of the Administrative Law Judge. 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 Acting Deputy Administrator finds that Respondent graduated from medical school in 1965. He has been practicing as a general practitioner in Alexandria, Virginia since 1974. In 1979, a state inspector advised Respondent that a number of his patients were known drug abusers; that it appeared that the patients were seeing Respondent only to obtain drugs; and that Respondent should be more careful in prescribing to his patients. According to the inspector, Respondent indicated that he would be more careful.

Sometime prior to December 1990, DEA and a local police department received reports from local pharmacies and from the Virginia Board of Medicine that Respondent was excessively prescribing controlled substances over extended periods of time. As a result of

this information, investigators conducted a survey of 35 area pharmacies and determined that approximately 30 individuals were receiving a large number of controlled substance prescriptions from Respondent.

Between December 19, 1990 and February 21, 1991, two undercover officers and a cooperating individual went to Respondent's office in an attempt to obtain controlled substance prescriptions for no legitimate medical purpose. The cooperating individual went to Respondent's office on December 19, 1990 and January 10 and 16, 1991, wearing a concealed body wire which was monitored. During these visits, the cooperating individual had visible needle marks on his hands and arms from intravenous heroin use. At the first visit, the cooperating individual told Respondent that he had knee surgery in the past and that he had been taking pain killers for a long time. He indicated to Respondent that he needed to see him once a month, and asked for a specific controlled substance. After further conversation, Respondent asked ''Where is the pain now?'' and the cooperating individual reminded Respondent that it was an old knee injury and it was better. However, Respondent later asked whether the cooperating individual had knee pain and the individual answered, ''Yes.'' Respondent issued the cooperating individual a prescription for Vicodin following a very cursory examination.

During the second visit, the individual indicated that he had run out of his medicine and referred to ''that old knee injury from '85.'' Respondent told the cooperating individual that Vicodin ''is addicting,'' to which the individual responded, ''I know it's addicting, I've been taking it for five years and it's hard to get through without it, you know.'' Respondent nonetheless issued the individual a prescription for Vicodin. During the final visit, Respondent warned the individual of the addictive properties of Vicodin and advised him to take as little of the drug as possible and only when needed. Respondent did not examine the individual's knee.

An undercover police officer went to Respondent's office on eight occasions between December 19, 1990 and February 21, 1991. At first, the undercover officer indicated that he liked to feel a ''little mellowed out.'' Respondent asked if the officer was nervous, to which he replied, ''okay.'' The officer received a prescription for Valium. While Respondent's patient chart for the officer indicates that a physical examination was performed, the officer testified that there was no examination. During the second visit on December 27, 1990, Respondent asked if the undercover officer was nervous. The officer said, ''Yeah * * * that Valium just didn't make me feel any better. * * *'' Respondent refused the undercover officer's request for Percodan, but gave him a prescription for Xanax instead. According to the officer, Respondent listened to his breathing, but did not perform any other physical examination. At the next visit, the undercover officer indicated that he was not nervous, but that he wanted something stronger than Xanax. Respondent issued him a prescription for Ativan. For the next two visits, the undercover officer did not discuss any health problems whatsoever with Respondent and just asked for a prescription. Respondent warned the officer of the addictive nature of the prescribed drugs, but nonetheless issued prescriptions for Ativan. On the sixth visit, Respondent asked the officer if he felt ''like [you're] a little nervous and everything,'' to which the officer responded, ''yeah.'' Respondent gave the officer a prescription for Ativan. Finally, on the last two visits, the undercover officer indicated that he was feeling good. On one occasion, Respondent stated that the officer had come back too soon for another prescription. Respondent issued the officer Ativan prescriptions on both occasions.

A second undercover officer went to Respondent's office on four occasions between January 23 and February 21, 1991. During the first visit, the officer repeatedly asked for a prescription for Percodan. He offered to pay Respondent $100.00 instead of the $35.00 office visit charge. The officer told Respondent that he had obtained Percodan from another physician who told him that he had to have severe pain, but ''between you and me I really don't have severe pain. * * *'' He also told Respondent that he had sold Percodan in the past. Respondent asked the undercover officer if he had back pain, and the officer replied, ''I guess if I have to, I'll have back pain.'' After further conversation, Respondent said ''if you have pain come in here. I don't want to see you if you don't have pain.'' Respondent gave the officer a prescription for 30 Vicodin, telling him to take it only for pain. At the second visit, the undercover officer asked for Percocet and repeatedly said that he was not in any pain. Respondent issued the officer a prescription for 30 Vicodin, but told him not to take it if he was not in pain. During the next visit, the undercover officer indicated that he had run out of medicine. Respondent stated that the officer was back too soon for another prescription and should only take the drugs if he was in pain. The officer than stated, ''So, if I don't have any pain, I don't get any, right?'' The officer then stated that he had pain and asked Respondent to check his back. Respondent gave the officer a prescription for 20 Vicodin. On Respondent's final visit, Respondent again stated that the officer had returned too soon and repeatedly told the officer that he should only take the pills when he had pain and that they were addictive. The undercover officer said that, ''if I have to come back, I'll make sure I have pain.'' Respondent issued the officer a prescription for 20 Vicodin.

After the pharmacy surveys and the undercover visits, search warrants were executed at Respondent's office in October 1991 and April 1992, during which various patient records were seized. Subsequently, a number of Respondent's patients were interviewed.

In her Opinion and Recommendation Ruling, Findings of Fact, Conclusions of Law and Decision, Judge Bittner went into great detail regarding the prescriptions discovered during the pharmacy surveys, the information contained in the patient charts, what was learned during the patient interviews and the testimony of some of these individuals in subsequent criminal trials. Since the Acting Deputy Administrator is adopting Judge Bittner's findings of fact in their entirety, there is no need for him to reiterate them. However, the Acting Deputy Administrator makes the following general findings regarding Respondent's prescribing to the individuals at issue.

In general, the individuals complained of headaches, backaches, pain in various other parts of the body, nervousness and anxiety. They usually saw Respondent two to five times a month for several years. At virtually every visit, they were prescribed controlled substances with little or no other treatment. Respondent performed little or no physical examinations and there were very few, if any, referrals to specialists. There was no apparent attempt by Respondent to determine the cause of the alleged problems. A number of the individuals were admitted drug abusers and exhibited some of the classic signs of drug abuse. Most of the individuals were required by Respondent to sign documents which essentially stated that they had been advised of the habit forming nature of the prescribed controlled substances; that they have tried other medications in the past, but the prescribed

controlled substances are the only medications that help; and that they assume all responsibility for the misuse of the medication prescribed by Respondent. Respondent told some of the individuals to avoid taking the prescriptions to certain pharmacies, particularly ones with computers; to take the prescriptions to various pharmacies; or to take the prescriptions to Maryland or Washington, D.C. to be filled.

One patient indicated that Respondent had a reputation in the community as a physician from whom it was easy to obtain drugs. A pharmacist called Respondent and told him that Respondent was issuing controlled substance prescriptions to an individual who was also getting such prescriptions from other physicians. Respondent told the pharmacist to go ahead and fill the presented prescription. Respondent refused to issue an individual another controlled substance prescription, indicating that some of his other patients had gotten him in trouble with DEA, and he stopped prescribing to another individual, telling her that he was having some troubles.

A pharmacist sent letters to Respondent regarding two patients asking Respondent for a diagnosis for the prescriptions issued since they were receiving a large number of prescriptions from Respondent. An insurance company wrote to Respondent regarding one of his patients seeking a diagnosis in light of an overabundance of prescriptions. There is no indication that Respondent replied to any of these letters.

One patient told Respondent that he had abused drugs in the past. Respondent routinely issued him controlled substance prescriptions for an alleged back problem. At some point, Respondent indicated that he could no longer issue the individual prescriptions for his back problem and the individual would have to have some other problem. The individual said that a tooth was bothering him when in fact he did not have a toothache. Respondent issued the individual controlled substance prescriptions regularly for five months for his alleged toothache. Thereafter, the patient chart indicates that Respondent prescribed the individual controlled substances supposedly for knee pain following surgery even though the individual was being treated by an orthopedist and he did not have any pain after the first week following surgery.

Experts for both the Government and Respondent reviewed Respondent's controlled substance prescribing. The Government experts essentially concluded that there was no legitimate medical purpose for Respondent's continued prescribing of controlled substances to the individuals at issue, or at the very least it was not good medicine. One expert found Respondent's prescribing to be clear abuse, gross misuse of addicting substances, inappropriate and indiscriminate. The other expert stated that with no tests to determine the cause, ''the continued use of narcotics for headaches is reprehensible.'' He further testified that,

> I am not saying he is a bad doctor. I'm simply saying that he was duped many times over, and I think that's the reprehensible problem. He needed to think more clearly about why he was giving narcotics. There was one person here who had 500 prescriptions for a narcotic. I mean, * * * that's just never going to happen in real life with primary care physicians. It's just not going to happen. And yet it happened in his case, and it happened many times over * * *.

This expert also testified that when treating individuals with severe prolonged pain, he generally maintains them on narcotics for no more than one to two weeks and invariably refers them to a specialist if the narcotics are not successful. This expert further testified that while it is appropriate to warn patients of the addictive potential of controlled substances, he had never seen in his 35 years of practice a consent for, or a waiver for narcotics like the one that was used by Respondent.

Respondent's experts essentially felt that Respondent's prescribing was appropriate. However, neither of Respondent's experts were family practitioners. One of the experts felt that Respondent's patients described the normal signs of people suffering from migraine headaches and that prescribing of controlled substances is common for an acute migraine. But according to the expert, long-term use of controlled substances causes addiction which results in a vicious cycle because abrupt cessation of the medication will cause the patient to develop a headache. The expert testified that in such a situation, the patient needs to be hospitalized to manage the withdrawal from the controlled substances. Respondent's other expert indicated that if a patient with chronic pain made four or five visits to him and the pain was only alleviated by a narcotic, he would refer the patient to a specialist.

In 1992, Respondent was indicted in the United States District Court for the Eastern District of Virginia on 136 counts of prescribing controlled substances outside the usual curse of medical practice and for other than legitimate medical purposes in violation of 21 U.S.C. 841(a)(1). Following a jury trial, Respondent was found guilty of 127 counts of unlawful distribution of controlled substances.

As a result of his conviction, on April 26, 1993, the Virginia Board of Medicine (Medical Board) revoked Respondent's license to practice medicine in Virginia. Thereafter, DEA revoked Respondent's previous DEA Certificate of Registration by order published on July 12, 1993. See 58 Fed Reg. 37,506 (1993).

On February 28, 1994, the United States Court of Appeals for the Fourth Circuit reversed Respondent's conviction on 80 counts based upon insufficient evidence to convict, and reversed and remanded for a new trial the convictions on 47 counts because reputation evidence and a medical expert's hearsay opinion were improperly admitted into evidence. Subsequently Respondent was charged in a superseding indictment with 45 counts of unlawful distribution of controlled substances in violation of 21 U.S.C. 841(a)(1). Respondent was tried on these counts in July 1994 and was acquitted on all charges. Following his acquittal, the Medical Board issued an order on August 15, 1994, vacating its earlier revocation of Respondent's medical license.

At the hearing in this matter, Respondent testified that he is ''a changed man,'' and that he is now aware and more careful about giving narcotics to patients. However, he did not acknowledge that he had in any way improperly prescribed controlled substances. Respondent admitted that he told patients to go to different pharmacies, but said that he did so to encourage his patients to find the best price for their prescriptions. He denied that he ever told his patients to avoid having their prescriptions filled at pharmacies with computers or to spread their prescriptions among various pharmacies. Respondent further testified that pain is subjective, that he gives the patient the benefit of the doubt, and that ''[m]y conscience say I have to trust people and now, after I go through that, I know you have to be careful not to trust people so much. * * *''

Respondent also testified that if he is issued a DEA registration, ''I swear that I will not give controlled substances anymore, because this does not do any good to me.'' He stated that he needs a DEA registration in order to obtain hospital privileges, to be accepted by insurance companies as a provider, and to have his prescriptions for non-

controlled substances filled at pharmacies.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any application for such registration, 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 pubic heath 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., 54 Fed. Reg. 16,422 (1989).

Regarding factor one, it is undisputed that the Medical Board revoked Respondent's medical license following his conviction, but then reinstated it after his acquittal on all charges. Therefore, Respondent currently possesses an unrestricted state license to practice medicine and handle controlled substances. But, the Acting Deputy Administrator agrees with Judge Bittner that ''inasmuch as state licensure is a necessary but not sufficient condition for DEA registration, * * * this factor is not dispositive.''

As to factors two and four, Respondent's experience in dispensing controlled substances and his compliance with applicable laws relating to controlled substances, the Acting Deputy Administrator agrees with Judge Bittner that ''[t]he record is replete with examples of Respondent's prescribing of controlled substances in a manner which is most charitably described as totally irresponsible.'' Pursuant to 21 CFR 1306.04, controlled substances may only be prescribed for legitimate medical purpose. There are many instances that suggest that Respondent was indiscriminately prescribing controlled substances. Respondent prescribed controlled substances to individuals on a regular basis over an extended period of time based solely on the subjective complaints of the individuals with little or no effort to determine the cause of the individual's problems or to refer them to specialists. Judge Bittner found the Government's expert who testified at the hearing to be ''a knowledgeable, credible expert who thoroughly considered the information available to him.'' The expert found that there was no legitimate medical reason for Respondent's continued prescribing of controlled substances to almost all of the individuals.

The undercover visits raise serious concerns regarding Respondent's dispensing of controlled substances. One undercover officer repeatedly requested Percodan by name, told Respondent that he sold Percodan, and offered to pay Respondent $100.00 rather than the standard $35.00 office visit charge. In response to Respondent's question about whether he had any pain, the undercover officer stated that, ''I guess if I have to, I'll have back pain.'' While Respondent refused to prescribe the undercover officer Percodan he did issue him prescriptions for Vicodin. The other undercover officer's patient chart indicates that Respondent performed a physical examination on the initial visit before issuing the officer a controlled substance prescription. However, the officer testified that Respondent did not perform any sort of an examination. As to the cooperating individual, Respondent issued him prescriptions for a narcotic even though the individual had visible needle marks on his hands and arms.

There are other indications in the record that Respondent himself was not completely comfortable with his prescribing of controlled substances to the individuals at issue. First, Respondent had his patients sign documents wherein the patients indicated that they would ''take all the responsibility of the misuse of the medicine prescribed for my health by Tran-Cuong MD.'' As a DEA registrant, a physician must ensure that the controlled substances that he/she prescribes are only used for a legitimate medical purpose. These waivers are an attempt by Respondent to abrogate this responsibility. Second, according to a number of the individuals, Respondent told them to take their prescriptions to various pharmacies, to avoid pharmacies with computers and to take them to be filled at pharmacies in Maryland and Washington, D.C. Respondent contends that he never told the individuals to take their prescriptions to different pharmacies or to avoid pharmacies with computers, but that he only encouraged the individuals to find the best price for their medication. Since a number of the individuals related the same information, the Acting Deputy Administrator does not find Respondent's explanation credible. Finally, Respondent stopped prescribing controlled substances to at least two of the individuals stating that he was having trouble with DEA. This seems to suggest that Respondent himself doubted the legitimacy of the prescriptions that he had been issuing to these individuals.

The Acting Deputy Administrator concurs with Judge Bittner's finding ''that Respondent prescribed controlled substances to numerous patients, over long periods of time, in contravention of his responsibility to establish that there was a medical need for these prescriptions.''

Regarding factor three, while Respondent was initially convicted of 127 counts of unlawful distribution, these charges were ultimately disposed of by reversal, dismissal or acquittal. Therefore, there is no evidence that Respondent has been convicted of any charges relating to controlled substances.

As to factor five, Judge Bittner stated that ''Respondent's continuing attempts to justify his prescribing practices warrant the inferences * * * that although Respondent clearly regrets the legal financial and personal difficulties that arose from his prescribing practices, he still does not fully acknowledge his wrongdoing.* * *''

Judge Bittner concluded that ''Respondent is unwilling and/or unable to accept the responsibilities inherent in holding a DEA registration.'' Therefore, Judge Bittner found that Respondent's registration would be inconsistent with the public interest and recommended that his application be denied.

Respondent filed exceptions to Judge Bittner's recommendation stating that denial is too harsh a penalty since this is his first offense and he ''was acquitted of criminal charges which were based on the same factual situation presented here.'' The Acting Deputy Administrator notes that these proceedings are not punitive in nature, but instead look to protect the public health and safety. See Richard J. Lanham, M.D., 57 Fed. Reg. 40,475 (1992); Richard A. Cole, M.D., 57 Fed. Reg. 8677 (1992). In evaluating this case, the Acting Deputy Administrator finds it noteworthy that Respondent was warned in 1979 that he was being conned by known drug abusers to issue them controlled substance prescriptions. Respondent

acknowledged this information, yet failed to exercise proper care in his future prescribing. In addition, while it is true that Respondent was acquitted of all criminal charges, a conviction is not a necessary prerequisite for denial. Careless or negligent handling of controlled substances creates the opportunity for diversion and could justify revocation or denial. As Respondent's counsel noted in his closing argument at Respondent's second criminal trial:

> * * * because if Dr. Tran didn't notice what he should have noticed, that is not a crime. That may be bad doctoring. That may be carelessness. That may be a reason perhaps why someone shouldn't be a doctor * * *.''

The Acting Deputy Administrator concludes that Respondent's careless and indiscriminate prescribing of controlled substances warrant the denial of his application for registration.

Also in his exceptions, Respondent contends that ''this procedure has been a learning experience. I now realize the importance of maintaining detailed medical records on each patient * * * [and] I am a more enlightened man when it comes to prescribing controlled substances for a legitimate medical purpose *only*.'' Respondent says that he will only prescribe for a legitimate medical purpose and that he is a ''changed man,'' but he does not acknowledge that he prescribed improperly. Therefore, the Acting Deputy Administrator is not confident that Respondent recognizes what needs changing in his handling of controlled substances. There is no evidence in the record how Respondent has changed or that he has attempted to better educate himself in the proper handling of controlled substances. As a result, the Acting Deputy Administrator does not believe that it is in the public interest for Respondent to be issued a registration at this time.

Finally, in his exceptions and during the hearing in this matter, Respondent indicated that if he is issued a DEA registration, he will refrain from dispensing controlled substances ''because it not only get me in trouble, it doesn't do anything to me.'' According to Respondent without a DEA registration he cannot get hospital privileges, he is not accepted as a provider by insurance companies, pharmacies will not fill his non-controlled prescriptions, and pharmaceutical representatives refuse to give him samples of non-controlled substances. While Respondent's predicament is unfortunate, it does not justify granting him a DEA registration. Practitioners are issued DEA registrations so that they can responsibly handle controlled substances, not so that they can obtain hospital privileges. In light of Respondent's failure to acknowledge any wrongdoing, the lack of any details as to how he has changed, and the absence of any recent training in the proper handling of controlled substances, the Acting Deputy Administrator concludes that it would be inconsistent with the public interest to grant Respondent's application for a DEA Certificate of Registration at this time.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration, executed by Cuong Trong Tran, M.D., be, and it hereby is, denied. This order is effective December 21, 1998.

Dated: November 13, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–30884 Filed 11–18–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1889–97]

Imposition of Fines Under Section 231 of the Immigration and Nationality Act

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice serves to clarify the Immigration and Naturalization Service (Service) policy involving the imposition of fines under section 231 of the Immigration and Nationality Act (Act). The Service will, in the future publicize criteria and implement procedures that will impose fines for violations of section 231(a) and (b), of the Act, in a more comprehensive manner. However, fines will not be imposed until the Service has notified the carriers of procedures and criteria that will be used in this process.

DATES: This notice is effective November 19, 1998.

FOR FURTHER INFORMATION CONTACT: Una Brien, National Fines Office, Immigration and Naturalization Service, 1400 Wilson Blvd., Suite 210, Washington, DC 22209, telephone (202) 305–7018.

SUPPLEMENTARY INFORMATION: This notice announces the Service's plans to adopt new procedures to impose fine liability under section 231(a) and (b) of the act. Specifically the Service intends to begin to fine carriers for violations in accordance with procedures in section 231(a) and expand fine liability under 231(b) of the Act in accordance with procedures and criteria that are being developed. The Service will inform carriers of the procedures and criteria under which such fines may be levied via further publication in the **Federal Register**. These fines will not be imposed until the Service has informed the interested parties through publication in the **Federal Register** of the procedures and criteria. When these procedures and criteria are published as a notice of proposed rulemaking, carriers and others will have an opportunity for comment.

The collection of arrival and departure information for airport and seaport activity is addressed in section 231 of the Act and expanded upon in 8 CFR part 231. This section delineates the transportation company's responsibility to provide manifests for arriving and departing passengers.

Presently, the Service only imposes fines for violations of section 231(b) of the act, with respect to the proper submission of departure manifests, Form I–94T. The Service plans to expand the imposition of section 231(a) and (b) fines for failure to present properly completed arrival and departure manifests, as required on Form I–94, Arrival-Departure Record; Form I–94T, Arrival-Departure Record (Transit Without Visa); and Form I–94W, Visa Waiver Nonimmigrant Arrival/Departure Document.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) Pub. L. 104–208, 110 Stat. 3009 (Sept. 30, 1996) requires the Service to develop an automated entry and exit control system that will collect a record of departure for every alien departing the United States and match these records of departure with the record of the alien's arrival in the United States. This will enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the authorized period of stay. Forms I–94 are used to record the arrival and departure of nonimmigrant aliens into and from the United States. Imposing fines under section 231 of the Act will encourage air and sea carriers to comply with regulations concerning the proper submission of Form I–94, I–94T, and I–94W.