

none are being filed with this Competitive Impact Statement.

Dated: March 15, 1999.

Respectfully submitted,

Nina B. Hale,

Salvatore Massa,

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98-36]

Francois J. Saculla, M.D., Revocation of Registration

On April 13, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Francois J. Saculla, M.D. (Respondent) of Racine, Wisconsin notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BS1404552, and deny any pending applications for renewal of his registration pursuant to 21 U.S.C. 823(f) and 824(a)(3), for reason that he is not currently authorized to handle controlled substances in the State of Wisconsin.

By letter dated May 21, 1998, but not filed with the Office of Administrative Law Judges until July 20, 1998, Respondent requested a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On August 20, 1998, the Government filed a Motion for Summary Disposition alleging that Respondent is not currently authorized to handle controlled substances in the state in which he is registered with DEA and therefore DEA cannot maintain his registration. Judge Bittner provided Respondent with an opportunity to respond to the Government's motion, but no such response was filed.

On October 14, 1998, Judge Bittner issued her Opinion and Recommended Decision finding that Respondent lacked authorization to handle controlled substances in Wisconsin; 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 November 24, 1998, Judge Bittner transmitted the record of these

proceedings to the then-Acting 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 Decision 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 Deputy Administrator finds that in a Final Decision and Order dated November 25, 1994, the State of Wisconsin, Medical Examining Board (Board) limited Respondent's license to practice medicine. The Board Order prohibited Respondent from treating any female patient; ordered that his entire practice be under the direct supervision of another physician; required that Respondent undergo psychological evaluation within 90 days; and advised that any additional limitations recommended by the psychologist would be adopted by the Board. In addition, costs were assessed against Respondent in the amount of \$22,000. The Order placed no limitations on Respondent's ability to handle controlled substances in Wisconsin. Therefore, Respondent presently possesses a limited license to practice medicine in Wisconsin.

However, in order to practice medicine in Wisconsin an individual must not only be licensed but must also possess a registration. Respondent's Wisconsin registration expired on November 1, 1995. Therefore, Respondent is unable to practice medicine in the State of Wisconsin. The Deputy Administrator finds that it is reasonable to infer that if Respondent is unable to practice medicine in Wisconsin, he is also not authorized to handle controlled substances in that state. In his request for a hearing, Respondent did not deny that he was not currently authorized to handle controlled substances in Washington.

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 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 currently authorized to handle controlled substances in Wisconsin, where he is registered with DEA. Since Respondent lacks this state authority, he is not entitled to a DEA registration in that state.

In light of the above, Judge Bittner properly granted the Government's Motion for Summary Disposition. It is well settled that where there is no material question of fact involved, or when the material facts are agreed upon, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. *Gilbert Ross, M.D.*, 61 FR 8664 (1996); *Philip E. Kirk, M.D.*, 48 FR 32,887 (1993), *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

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 BS1404552, previously issued to Francois J. Saculla, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective April 26, 1999.

Dated: March 22, 1999.

Donnie R. Marshall,

Deputy Administrator.

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DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 23, 1999.

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, Acting Departmental Clearance Officer, Pauline Perrow ((202) 219-5096 ext. 165) or by E-Mail to Perrow-Pauline@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM,