

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

**Importer of Controlled Substances;
Notice of Registration**

By Notice dated April 26, 1999, and published in the **Federal Register** on May 7, 1999, (64 FR 24679), Noramco of Delaware, Inc., Division of McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The firm intends to import the listed controlled substances to produce codeine phosphate, codeine sulfate, morphine sulfate, oxycodone and hydrocodone.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Noramco of Delaware, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Noramco of Delaware, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: July 1, 1999.

John H. King

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

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DEPARTMENT OF JUSTICE

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[Docket No. 99-18]

Vincent G. Rhoden, D.P.M.; Revocation of Registration

On January 21, 1999, the Deputy Assistant Administrator, Officer of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Vincent G. Rhoden, D.P.M. (Respondent) of California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BR5050860 pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of California.

By letter dated March 1, 1999, Respondent requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On March 8, 1999, Judge Bittner issued an Order for Prehearing Statements. In lieu of filing a prehearing statement, the Government filed a Motion for Summary Disposition on March 29, 1999, alleging that Respondent is currently registered with DEA to handle controlled substances in the State of California, however he is currently without state authority to handle controlled substances in that state. On April 19, 1999, Respondent filed his response to the Government's motion requesting that the proceedings be stayed for "at least 180 days so that [he] may explore all available judicial remed[ies] for a questionable decision that was rendered against [him]. In addition, Respondent stated that there have been no complaints regarding his use of his DEA Certificate of Registration and that he intends to return to the practice of medicine. However, Respondent did not deny that he was not currently authorized to handle controlled substances in California.

On April 22, 1999, Judge Bittner issued her Opinion and Recommended Ruling, finding that Respondent lacks authorization to handle controlled substances in the State of California; 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 May 24, 1999, Judge Bittner transmitted the record of these

proceedings to the 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.

The Deputy Administrator finds that the Board of Pediatric Medicine, Department of Consumer Affairs, State of California, revoked Respondent's license to practice podiatric medicine effective January 14, 1998. Respondent does not deny that his medical license has been revoked. As a result, the Deputy Administrator concludes that Respondent is not currently authorized to practice medicine in the State of California, and therefore, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

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. See 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 16193 (1997); *Demetris A. Green, M.D.*, 61 FR 60728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993).

Here it is clear that Respondent is not currently authorized to handle controlled substances in the State of California. As a result, 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. The parties did not dispute the fact that Respondent is not currently authorized to handle controlled substances in California. Therefore, it is well-settled that when no question of fact is involved, or when the material facts are agreed upon, a plenary, adversarial proceeding involving evidence and cross-examination of witnesses is not required. See *Jesus R. Juarez, M.D.*, 62 FR 14945 (1997). The rationale is that Congress does not intend administrative agencies to perform meaningless tasks. See *Philip E. Kirk, M.D.*, 48 FR 32887 (1983), *affd; sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984); see also *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977).

Accordingly, the Deputy Administrator of the Drug Enforcement