

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 Certificates of Registration BC2335912 and BC5019395, previously issued to Bryant D. Chomiak, M.D., be, and they hereby are, revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registrations, be, and they hereby are, denied. This order is effective September 7, 1999.

Dated: July 27, 1999.

Donnie R. Marshall,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 26, 1999, and published in the **Federal Register** on May 7, 1999, (64 FR 24678), Dupont Pharmaceuticals, 1000 Stewart Avenue, Garden City, New York 11530, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

The firm plans to manufacture the listed controlled substances to make finished products.

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 Dupont Pharmaceuticals to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Dupont Pharmaceuticals 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 21 U.S.C. 823 and 28 CFR 0.104, the Deputy Assistant Administrator, Office of Diversion

Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 22, 1999.

John H. King,

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

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98-27]

Roger Lee Kinney, M.D.; Grant of Restricted Registration

On March 17, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Roger Lee Kinney, M.D. (Respondent) of Sapulpa, Oklahoma, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that his registration would be inconsistent with the public interest.

By letter dated April 15, 1998, Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause. Following prehearing procedures, a hearing was held in Tulsa, Oklahoma on July 21, 1998, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument. On January 22, 1999, Judge Randall issued her Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision, recommending that Respondent's application for registration be granted subject to various conditions. Neither party filed exceptions to Judge Randall's opinion, and on April 12, 1999, Judge Randall 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 recommended rulings, findings of fact, conclusions of law and decision of the Administrative Law Judge. His adoption

is in no manner diminished by any recitation of facts, issues or conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that Respondent graduated from medical school in 1966, and entered private practice in Sapulpa, Oklahoma in 1967, as a general or family practitioner. He has been a staff member at the only local hospital for approximately 30 years. There are 14 active staff positions at the hospital and it serves a fairly rural area consisting of approximately 58,000 people.

During the early 1980s, Respondent purchased and ingested cocaine. The record is not clear as to the extent of Respondent's abuse of cocaine. However according to Respondent, he last ingested cocaine on August 8, 1985. There is also some evidence in the record that in 1981, Respondent dispensed and distributed Preludin, a Schedule II controlled substance, not in the usual course of his professional practice or for legitimate medical or research purposes.

In 1985, a federal grand jury charged Respondent with an 82-count indictment, which include counts for illegal distribution of a controlled substance, conspiracy to distribute cocaine, and income tax evasion. According to Respondent, he pled guilty to at least 14 felony counts, among them, conspiracy, illegal distribution, and tax evasion, and he was sentenced to four years incarceration. However, the Deputy Administrator is unable to determine exactly what charges Respondent was convicted of, since no judgment order was entered into evidence. Further, while Respondent pled guilty to some charges and he admitted in his 1990 application for a DEA Certificate of Registration that he has been convicted of illegal distribution of controlled substances "which stemmed from a problem of substance abuse," the Government did not present any evidence of the underlying fact of the investigation which led to Respondent's indictment and ultimate conviction. Therefore, the Deputy Administrator is unable to determine the extent and severity of Respondent's unlawful conduct.

Respondent consented to the suspension of his medical license during the period of his incarceration. Thereafter, on February 24, 1986, the Oklahoma State Board of Medical Examiners (Board) suspended Respondent's medical license. While incarcerated, Respondent participated in a drug rehabilitation program. His sentence was later reduced to three years incarceration because of his