indicated that he would not abuse his privileges in the future, stated that he needs a DEA registration in his practice of dentistry, and asked that his registration be reinstated. However, Respondent did not request a hearing on the issues raised by the Order to Show Cause.

Thereafter, the matter was docketed before Administrative Law Judge Gail A. Randall. By letter dated March 15, 1999, Judge Randall advised Respondent that he did not request a hearing in his February 25, 1999 letter. Nonetheless, Judge Randall told Respondent that he had until March 31, 1999, to request a hearing, and that failure to request a hearing by that date, would be deemed a waiver of his right to a hearing pursuant to 21 CFR 1301.43(d).

On April 13, 1999, Judge Randall issued an Order; Notice of Waiver of Hearing advising that she had not received a response to her letter to Respondent dated March 15, 1999. As a result, Respondent was deemed to have waived his opportunity for a hearing and Judge Randall terminated the proceedings before her.

Subsequently the mater was transmitted to the Deputy Administrator for issuance of a final agency decision. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46

The Deputy Administrator finds that DEA initiated an investigation of Respondent in May 1996 after receiving reports that Respondent had purchased large quantities of Schedule III through V controlled substances from a single distributor. A review of the distributor's invoices revealed that Respondent purchased over 58,000 dosage units of Schedule III through V controlled substances from this distributor between May 28, 1994 and April 23, 1996.

On May 2, 1996, during an interview with investigators, Respondent admitted that he ordered and received controlled substances, but claimed that he dispensed them to his patients. When asked for records of receipt and dispensation, Respondent stated that he did not maintain any records, except what was noted in the patient charts. It was also discovered that Respondent did not have any controlled substances on hand as of the date of the interview. Upon further questioning, Respondent admitted that the controlled substances were not given to his patients, but instead, he sold them on a monthly basis for two to three dollars per pill to a Mexican national. Respondent indicated that he was experiencing financial difficulties at the time. On May 6, 1996, Respondent surrendered his previous DEA Certificate of Registration.

Respondent then submitted a new application for registration with DEA dated July 15, 1998. He indicated on this application that he surrendered his previous DEA registration because ''[a]t that time I was not doing a proper job at keeping records.''

On October 13, 1998, a DEA investigator had a conversation with Respondent regarding his application for registration. During this conversation, Respondent indicated that he needs limited controlled substance privileges for the treatment of his patients; that he needs a DEA registration in order to be accepted as a provider by insurance companies; that he has no contact with the Mexican national; and that his financial problems have been resolved through bankruptcy proceedings.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration, if he determines that the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered in determining the public interest:

(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 public health and 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. Schwartz, Jr., M.D. 54 FR 16422 (1989).

The Deputy Administrator finds that there is no evidence in the investigative file regarding factors one and three. However factors two and four, Respondent's experience in dispensing controlled substances and his compliance with applicable controlled substance laws, are clearly relevant in determining whether Respondent's registration with DEA would be in the public interest. By Respondent's own admission in 1996, he ordered controlled substances and then sold them to a Mexican national for no legitimate medical purpose. This is clearly a violation of 21 U.S.C. 841(a)(1). In addition, Respondent failed to keep complete and accurate records of his controlled substance handling as required by 21 U.S.C. 827. Therefore, the evidence supports a finding that Respondent diverted over 58,000 dosage units of controlled substances between May 1994 and April 1996.

As to factor five, the Deputy Administrator finds it particularly troubling that Respondent was less than forthcoming on his application for registration dated July 15, 1998. Respondent indicated on the application that he surrendered his previous DEA registration based upon his failure to keep proper records. Respondent does not mention the fact that he illegally sold controlled substances to a Mexican national.

The Deputy Administrator concludes that there is substantial evidence in the record to support a conclusion that Respondent's registration with DEA would be inconsistent with the public interest. The Deputy Administrator recognizes that Respondent has indicated that he needs to be able to handle controlled substances in order to adequately treat his patients; however, the Deputy Administrator is not convinced based upon the evidence in the record that Respondent can be trusted to responsibly handle controlled substances.

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 CFR 0.100(b) and 0.104, hereby orders that the application for registration submitted by Clearance J. Sketch, D.D.S. on July 15, 1998, be, and it hereby is, denied. This order is effective August 6, 1999.

Dated: July 27, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–20233 Filed 8–5–99; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 12, 1999, and published in the **Federal Register** on April 27, 1999, (64 FR 22645), Stepan Company Natural Products Department,

100 W. Hunter Avenue, Maywood, New Jersey 07607, 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
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firm plans to manufacture bulk controlled substances for distribution to its customers.

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 Stepan Company to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Stepan Company 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 0.100 and 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. 99–2]

Dietrich A. Stoermer, M.D.; Denial of Application

On June 5, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Dietrich A. Stoermer, M.D. (Respondent) of Las Vegas, Nevada. The Order to Show Cause notified Dr. Stoermer 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) and 824(a)(3), based in part on the fact that he is not currently authorized to handle controlled substances in Nevada.

On October 26, 1998, Respondent filed a request for a hearing and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On November 2, 1998, Judge Bittner issued an Order requiring Respondent to file a written statement indicating why his more than four month delay in filing a request for a hearing should not be considered a waiver of his right to a hearing. On November 12, 1998, Respondent filed a written statement asserting that he received the Order to Show Cause on August 6, 1998, and since it was more than thirty days after the Order to Show Cause had been issued he believed that he was precluded from responding. Respondent asserted that he received a second Order to Show Cause on September 30, 1998, and timely filed his request for a hearing on October 26, 1998. The Government did not file an objection to Respondent's explanation. Thereafter, on November 25, 1998, Judge Bittner issued a Memorandum and Order for Prehearing Statements finding that Respondent did not waive his right to a hearing.

In lieu of filing a prehearing statement, the Government filed a Motion for Summary Disposition and Request for Stay of Deadline to File Prehearing Statement on December 15, 1998, alleging that Respondent is not authorized to handle controlled substances in Nevada, where he has applied to be registered with DEA. On December 31, 1998, Respondent submitted his response to the Government's motion, in which he did not deny that he was not currently authorized to handle controlled substances in Nevada.

On February 1, 1999, Judge Bittner issued her Opinion and Recommended Decision, finding that Respondent lacks authorization to handle controlled substances in the State of Nevada; granting the Government's Motion for Summary Disposition; and recommending that Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to her opinion, and on April 6, 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 attached to the Government's Motion for Summary Disposition was a letter dated March 5, 1998, from a licensing specialist with the Nevada State Board of Pharmacy (Pharmacy Board), which indicated that Respondent's state registration was not renewed in October 1994, and that while Respondent reapplied for registration in June of 1996, he did not complete the registration process. In his response to the Government's motion, Respondent did not deny that he was not currently authorized to handle controlled substances in Nevada. However, he asserted that when he applied for a state registration in June 1996, he was told not to pursue state registration ''until the Federal problem is sorted out.'' Subsequently, by letter dated January 25, 1999, Respondent forwarded a copy of his application dated January 29, 1999, for a controlled substance registration filed with the Pharmacy Board.

The Deputy Administrator finds that Respondent does not dispute that he is not currently authorized to handle controlled substances in Nevada, where he has applied for registration with DEA. However, he asserts that the Pharmacy Board will not consider his application for state registration until he receives a DEA Certificate of Registration. Judge Bittner noted that ''[t]his agency has neither the authority nor the obligation to discover why Respondent is not registered with the Pharmacy Board, but only to ascertain if Respondent is authorized to handle controlled substances in the State of Nevada.'' Therefore, the Deputy Administrator concludes that Respondent is not currently authorized to handle controlled substances in Nevada.

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 licensed to handle controlled substances in the State of Nevada. Since Respondent lacks this authority, he is