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 BR5050860, previously issued to Vincent G. Rhoden, D.P.M., 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 September 7, 1999.

Dated: July 27, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–20236 Filed 8–5–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 99–4]

Robert W. Shultice, M.D.; Revocation of Registration

On October 16, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Robert W. Shultice, M.D. (Respondent) of Cedar Rapids, Iowa. The Order to Show Cause notified Dr. Shultice of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BS0126272 pursuant to 21 U.S.C. 824(a)(1) and (a)(4), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), for reason that his continued registration would be inconsistent with the public interest.

By letter dated November 12, 1998, Respondent, through counsel, filed a request for a hearing and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On November 24, 1998, Judge Bittner issued an Order for prehearing Statements. The Government filed its prehearing statement on December 15, 1998, and on January 4, 1999, Respondent filed a Motion of Continuance. In his motion, Respondent indicated that he had voluntarily surrendered his license to practice medicine with the Iowa Board of Medical Examiners (Medical Board), and asked for an indefinite continuance of the proceedings. Respondent attached to his motion a copy of a Statement of Charges, Settlement Agreement and Final Order which was approved by the medical Board of December 17, 1998, in which Respondent agreed to voluntarily surrender his medical license no later than December 11, 1998. On January 4, 1999, Judge Bittner denied Respondent's motion.

Thereafter, the Government filed a Motion for Summary Disposition on January 21, 1999, alleging that Respondent was no longer authorized to handle controlled substances in Iowa, where he is registered with DEA. The Government attached to its motion a copy of a letter dated January 14, 1999, from the Iowa Board of Pharmacy (Pharmacy Board) to Respondent informing him that based on the surrender of his medical license, the Pharmacy Board revoked his Iowa controlled substance registration. On February 5, 1999. Respondent filed his Response to the Government's Motion for Summary Disposition, indicating that he did not object to the Government's motion.

On February 8, 1999, Judge Bittner issued her Opinion and Recommended Decision, finding that Respondent lacks authorization to handle controlled substances in Iowa; 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 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 Respondent voluntarily surrended his license to practice medicine in December 1998, and on January 14, 1999, the Pharmacy Board revoked his Iowa controlled substance registration. Therefore, the Deputy Administrator finds that Respondent is not currently authorized to handle controlled substances in the State of Iowa, where he is registered with DEA.

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 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 licensed to handle controlled substances in the State of Iowa. Since Respondent lacks this 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. The parties did not dispute the fact that Respondent is currently unauthorized to handle controlled substances in the State of Iowa. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Philip E. Kirk, M.D., 48 FR 32,887 (1983), aff'd 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); United States v. Consolidated Mines & Smelting Co., 44 F. 2d 432 (9th Cir. 1971).

According, 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 BS0126272, previously issued to Robert W. Shultice, 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 September 7, 1999.

Dated: July 27, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–20241 Filed 8–5–99; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 99–17]

Clarence J. Sketch, D.D.S.; Denial of Application

On February 2, 1999, the Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration (DEA) issued an Order to Show Cause to Clarence Sketch, D.D.S. (Respondent) of Costa Mesa, California, 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 such registration would be inconsistent with the public interest. In a letter to DEA dated February 25, 1999, Respondent admitted that he abused his previous DEA Certificate of Registration,

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,