

**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****[Docket No. 99-24]****Robert P. Doughton, M.D.; Denial of Application**

On April 14, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Robert P. Doughton, M.D. (Respondent) of Portland, Oregon, notifying him of an opportunity to show cause as to why DEA should not deny his application for a DEA Certificate of Registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that his registration would be inconsistent with the public interest.

DEA received a request for a hearing from Respondent on May 28, 1999, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing commenced on November 3, 1999, in Portland, Oregon. Due to an emergency situation in the courtroom that occurred in the midst of the hearing, Judge Bittner indefinitely postponed the hearing.

On November 10, 1999, the Government filed a Motion for Summary Disposition, alleging that Respondent is not currently authorized to handle controlled substances in Oregon, the state where he seeks registration with DEA. Judge Bittner gave Respondent an opportunity to file a response to the Government's motion, however no such response was filed.

On December 22, 1999, Judge Bittner issued her Opinion and Recommended Decision finding that Respondent lacks authorization to handle controlled substances in the State of Oregon; 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 Recommended Decision, and on January 24, 2000, 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 submitted an application for a DEA Certificate of Registration in

Schedules IV and V at an address in Portland, Oregon. The Deputy Administrator further finds that the Oregon Board of Medical Examiners issued on Order on October 15, 1999, suspending Respondent's medical license. Respondent did not offer any evidence to dispute the suspension of his Oregon medical license. Therefore, the Deputy Administrator finds that Respondent is not currently authorized to practice medicine in the State of Oregon and as a result, it is reasonable to infer that he is also not authorized to handle controlled substances in that state.

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).

Respondent has not denied that he is not currently authorized to handle controlled substances in Oregon. 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. The parties did not dispute the fact that Respondent is currently unauthorized to handle controlled substances in Oregon. It is well-settled that when no question of material fact is involved, apleary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See *Gilbert Ross, M.D.*, 61 FR 8664 (1996); *Philip E. Kird, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom Kird v. Mullen*, 749 F.2d 297 (6th Cir. 1984); *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 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 the application for a DEA Certificate of Registration submitted by Robert P. Doughton, M.D., be, and it hereby is, denied. This order is effective June 12, 2000.

Dated: May 4, 2000.

**Donnie R. Marshall,***Deputy Administrator.*

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**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****Manufacturer of Controlled Substances; Notice of Application**

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 29, 2000, Dupont Pharmaceuticals, 1000 Stewart Avenue, Garden City, New York 11530, made application by renewal to the Drug Enforcement Administration (DEA) for registration as 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.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registered.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 11, 2000.

Dated: May 1, 2000.

**John H. King,***Deputy Assistant Administrator, Office of Diversion Control, Drug, Enforcement Administration.*

[FR Doc. 00-11891 Filed 5-11-00; 8:45 am]

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**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****Manufacturer of Controlled Substances; Notice of Application**

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 21, 1999, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003