The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); 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).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice dentistry in Florida, and therefore, the Administrator infers that Respondent is also not authorized to handle controlled substances in Florida, where she practices, according to the address listed on her DEA Certificate of Registration. The Administrator finds that Judge Randall allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice dentistry in Florida or to handle controlled substances in that state.

The Administrator concurs with Judge Randall's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2000); Jesus R. Juarez, M.D., 62 FR 14945 (1997); see also Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom. *Kirk* v *Mullen,* 749 F.2d 297 (6th Cir. 1984).

Accordingly, the 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 the DEA Certificate of Registration AC2230338, issued to Iliana M. Cabeza, D.D.S., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26184 Filed 10–17–01; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Muttaiya Darmarajah, M.D.; Revocation of Registration

On May 29, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Muttaiya Darmarajah, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AD3082702, pursuant to 21 U.S.C. 824(a)(3), and to deny any pending applications for renewal of such registration, pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Darmarajah was not authorized by the State of Florida to handle controlled substances. The order also notified Dr. Darmarajah that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Darmarajah at his DEA registered premises in Panama City, Florida. A postal delivery receipt was signed June 11, 2001, on behalf of Dr. Darmarajah, indicating the OTSC was received. To date, no response has been received from Dr. Darmarajah nor anyone purporting to represent him.

Therefore, the Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Darmarajah is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Administrator finds as follows. Dr. Darmarajah currently possesses DEA Certificate of Registration AD3082702, issued to him in Florida. By Final Order of the Board of Medicine, State of Florida, dated September 5, 2000, Dr. Darmarajah's license to practice medicine in the State of Florida was revoked. The revocation was based upon a State of Florida Department of Health Administrative Complaint alleging that Dr. Darmarajah pleaded guilty on or about May 14, 1998 in the United States District Court for the Northern District of Florida to knowingly and willfully charging the Civilian Health and Medical Program of the Uniformed Services and Medicare for false and fraudulent claims for reimbursement of health care services, in violation of 18 U.S.C. 287, and also of filing a false and fraudulent tax return, in violation of 26 U.S.C. 7201. As a result, Dr. Darmarajah was sentenced to 15 months in Federal prison and $929,599.43 in restitution. The investigative file contains no evidence that Dr. Darmarajah's medical license has been reinstated or otherwise renewed.

Therefore, the Administrator concludes that Dr. Darmarajah is not currently licensed or authorized to handle controlled substances in Florida.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); 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).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Darmarajah is not authorized to practice medicine in Florida, and therefore, the Administrator infers that Dr. Darmarajah is also not authorized to handle controlled substances in Florida, the State in which he holds his DEA Certificate of Registration.

Accordingly, the 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 DEA Certificate of Registration AD3082702, previously issued to Muttaiya Darmarajah, M.D., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

Certificate of Service

This is to certify that the undersigned, on October 10, 2001, placed a copy of the Final Order referenced in the enclosed letter in the interoffice mail addressed to Robert Walker, Esq., Office of Chief Counsel, Drug Enforcement Administration, Washington, D.C. 20537; and caused a copy to be mailed, postage prepaid, registered return receipt to Muttaiya Darmarajah, M.D., 2638 East 40th Street, Panama City, Florida 32405.

Karen C. Grant.

[FR Doc. 01–26188 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Michael W. Dietz, D.D.S; Denial of Application

On July 24, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Michael Wayne Dietz, D.D.S., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not deny his application dated June 21, 1999, for registration as a practitioner, pursuant to 21 U.S.C. 823(f), on the grounds that such registration would be inconsistent with the public interest. The order also notified Respondent that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

By letter dated August 21, 2000, the Respondent, acting *pro se,* requested a hearing in this matter. On September 7, 2000, Administrative Law Judge Gail A. Randall issued an Order for Prehearing Statements, and also mailed a letter to Respondent informing him of his right to representation in these proceedings, attaching a copy of 21 CFR 1316.50 (2000) to her letter.

On September 11, 2000, Judge Randall timely received the Government's Prehearing Statement. By letter dated September 21, 2000, the Respondent requested an extension of three months from his October 19, 2000, filing date to retain counsel and to address documents mentioned in the Government's Prehearing Statement. Judge Randall stayed these proceedings in an Order, issued October 2, 2000, and allowed the Government an opportunity to respond to the Respondent's request.

On October 3, 2000, Judge Randall received the Government's Objection to Request for Extension. On October 6, 2000, Judge Randall issued an Order that extended Respondent's filing date and directed the Respondent to file a prehearing statement on or before November 9, 2000. The Order included a warning that no further extensions in this matter would be granted absent extraordinary circumstances. There is no evidence in the investigative file that Respondent responded in any fashion to Judge Randall's October 6, 2000, Order.

The Administrator of the Drug Enforcement Administration, having completely reviewed the investigative file in this matter, hereby issues his final order without a hearing, pursuant to 21 CFR 1301.43(d) and 1301.46 (2001).

When a party fails to file a prehearing statement, that failure is deemed a waiver of that party's right to a hearing. See Bill Loyd Drug, 64 FR 1823 (1999). Upon a finding of a waiver by the Administrative Law Judge, the record is transmitted to the Deputy Administrator's office for entry of a final order based upon the investigative file. *See* id *See* also 21 CFR 1301.43(e) (2001).

In the instant matter, the Respondent received the Order for Prehearing Statements, as evidenced by his request for an extension of time. Moreover, the Respondent had ample time to respond, especially considering that an extension of more than one month was granted by Judge Randall. To date, Respondent has offered no submissions or explanations for his failure to continue his action. The Administrator concurs with Judge Randall's conclusion that the Respondent has waived his right to a hearing, and that this matter is now properly before the Administrator for the entry of his final order without a hearing, pursuant to the authority cited above.

The Administrator finds as follows. By Order dated May 15, 1999, and published at 64 FR 15805, the then-Deputy Administrator revoked Dr. Dietz's DEA Certificate of Registration, based on his lack of state authorization to practice dentistry. The investigative file reveals that Respondent's license to practice dentistry was revoked by Order of the Tennessee Board of Dentistry (Board) dated May 27, 1998, based upon unprofessional conduct, personal misuse of controlled substances, and dispensing, prescribing, or otherwise distributing controlled substances not in the course of professional practice. Respondent was also assessed civil penalties in the amount of $4,000, and was required to contract with and maintain the advocacy of the Concerned Dentists Committee, and to seek treatment and rehabilitation for his drug addiction. By Order dated May 13, 1999, the Board reinstated Respondent's license to practice dentistry. Conditions of this reinstatement were that Respondent maintain the contract with the Concerned Dentists Committee, and be on probation for five years. Respondent applied for a new DEA Certificate of Registration by application dated June 21, 1999.

The Board was subsequently notified on January 14, 2000, by the Concerned Dentists Committee that Respondent had tested positive for cocaine, and had refused treatment. A hearing before the Board was scheduled to determine what action should be taken with regard to Respondent's state dentistry license. Respondent subsequently entered treatment, which postponed the hearing and resulted in his license to practice dentistry being suspended indefinitely.

Thereafter, in a Notice of Charges and Memorandum of Assessment of Civil Penalty (Notice) dated March 20, 2000, the Board proposed a penalty of $1,000 for Respondent's violation of his probation, and set the matter for hearing on May 11, 2000. The Notice also informed Respondent that the issues to be considered would include ''whether the proposed civil penalty shall be affirmed or whether a different type and amount of civil penalty is justified and assessable and/or whether the Respondent's license shall be revoked, suspended or otherwise disciplined.''

Pursuant to 21 U.S.C. 823(f), the Administrator may deny an application for a DEA Certificate of Registration if he determines that granting the registration would be inconsistent with the public interest. Section 823(f) requires 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 Administrator may rely on any one or 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 be denied. *See* Henry J. Schwartz, Jr., M.D., 54 FR 16422 (DEA 1989).

The Administrator has reviewed the five factors, and finds that factors (2), (3), (4), and (5) are most relevant to the instant matter.

Specifically, the Administrator finds with regard to factor two that Respondent was convicted of two felony violations of unlawfully distributing a controlled substance, and further that his state dentistry license was revoked