

of these proceedings was subsequently transmitted to the Deputy Administrator for final decision February 12, 2002.

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 Ruling of the Administrative Law Judge.

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 50,570 (2000); *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).

In the instant case, the Deputy Administrator finds the Government has presented undisputed evidence demonstrating that the Respondent is not authorized to practice veterinary medicine in the State of Wisconsin, the location of his business as stated on his DEA Certificate of Registration. The Deputy Administrator concurs with Judge Randall's finding that, as Respondent is not authorized to practice veterinary medicine in Wisconsin, it is reasonable to infer that Respondent likewise is not authorized to handle controlled substances in Wisconsin. *James D. Okun*, 62 FR 16,871 (1997). Without state authority to handle controlled substances, the Respondent is not eligible to possess a DEA registration for a place of business in Wisconsin.

The Deputy Administrator also 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 5,661 (2000); *Jesus R. Juarez, M.D.*, 62 FR 14,945 (1997); *see also Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom. Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

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 DEA Certificate of Registration BM4863812, issued to David H. Mills, D.V.M., be, and it

hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be, and hereby are, denied.

This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Willard W. Leiske, M.D., Revocation of Registration

On December 21, 2001, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Willard W. Leiske, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AL6303046, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Leiske was not authorized by the State of California to handle controlled substances. The order also notified Dr. Leiske 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. Leiske at his DEA registered premises in Big Bear Lake, California. The OTSC was returned, marked "Returned To Sender." To date, no communications have been received from Dr. Leiske nor anyone purporting to represent him.

Therefore, the Deputy Administrator, finding that (1) 30 days having passed since a legally sufficient attempt to serve the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Leiske is deemed to have waived his right to a hearing. Following a complete review of 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 as follows. Dr. Leiske currently possesses DEA Certificate of Registration AL6303046, issued to him in California. By Decision and Order dated May 19, 2000, the Medical Board of California, Division of Medical Quality (Board) adopted as its Decision a Stipulation for Surrender of License signed by Dr. Leiske April 25, 2000, whereby he

surrendered his medical license and acknowledged that he would no longer be permitted to practice as a physician and a surgeon in California. The investigative file contains no evidence that Dr. Leiske's medical license has been reinstated.

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 50,570 (2000); *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).

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

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 DEA Certificate of Registration AL6303046, previously issued to Willard W. Leiske, M.D., be, and it hereby is revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

John B. Brown III,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Frank W. Nedock, D.D.S.; Revocation of Registration

On or about April 6, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) to Frank W. Nedock, D.D.S., at his DEA registered premises in Bloomfield Township, Michigan, notifying him of an opportunity to show cause as to why the