disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: January 6, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–444 Filed 1–6–04; 11:52 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jong H. Bek, M.D., Revocation of Registration

On August 16, 2002, the Deputy Administrator of the Drug Enforcement Administration (DEA), issued a Notice of Immediate Suspension of Registration and Order to Show Cause to Jong H. Bek, M.D. (Dr. Bek), notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AB5580243, as a practitioner, and deny any pending applications for renewal or modification, for reason that Dr. Bek's continued registration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 824(a)(4). The Notice of Suspension, Order to Show Cause further informed Dr. Bek of the suspension of his DEA Certificate of Registration, as an imminent danger to the public health or safety pursuant to 21 U.S.C. 824(d).

The Notice of Suspension, Order to Show Cause alleged, in part, that Dr. Bek repeatedly prescribed controlled substances to undercover law enforcement personnel without a legitimate medical purpose, and was arrested on state felony murder charges after prescribing Xanax (a Schedule IV controlled substance) to two patients who subsequently overdosed on a combination of Xanax and heroin. It was further alleged that on July 25, 2002, the Indiana Medical Board issued a 90-day emergency suspension of Dr. Bek's medical license, thus, rendering him without authorization to practice medicine or handle controlled substances during the period of suspension. Finally the Notice of Suspension, Order to Show Cause further notified Dr. Bek that should no request for a hearing be filed within 30 days, her hearing right would be deemed waived.

The Order to Show Cause was personally served on Dr. Bek on August 21, 2002 at a detention facility in Lake County, Indiana, where Dr. Bek was awaiting trial on the above referenced felony charges. DEA has not received a request for hearing or any other reply from Dr. Bek or anyone purporting to represent him in this matter.

Therefore, the Acting Deputy Administrator of DEA, finding that (1) thirty days having passed since the delivery of the Notice of Suspension, Order to Show Cause to Dr. Bek, (2) no request for hearing having been received, concludes that Dr. Bek is deemed to have waived his hearing right. *See David W. Linder,* 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Bek currently possesses DEA Certificate of Registration AB5580243. A review of the investigative file reveals that on August 31, 2002, the Indiana State Medical Licensing Board (Board) issued an Order summarily suspending Dr. Bek's medical license in that state. While not outlining the specific basis for its action, the suspension order nevertheless alleged that Dr. Bek was ''defending certain State of Indiana criminal charges'' and that the matter was set for trial on April 28, 2003. The Acting Deputy Administrator has recently received information that on October 24, 2002, Dr. Bek and the Board entered into a Stipulation and Agreement to Extension of Summary Suspension, whereby the parties agreed that the suspension at issue would be extended ''until the criminal charges against [Dr. Bek] are resolved and until the Board has an opportunity to take final action on his license.''

The Acting Deputy Administrator has obtained a copy of a letter dated October 16, 2003, from the Director of the Indiana Medical Licensing Board, Health Professions Bureau to the Merrillville Resident Office of DEA notifying that Dr. Bek's Indiana state medical license remains suspended. The investigative file contains no evidence that the agreed extension of the Board's suspension order regarding Respondent's medical license has been lifted and the Acting Deputy Administrator has received no evidence that Dr. Bek's medical license has been reinstated. Therefore, the Acting Deputy Administrator finds that Dr. Bek is not currently authorized to practice medicine in the State of Indiana. As a result, it is reasonable to infer that he is also without authorization to handle controlled substances in that state.

DEA does not have 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 business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See James F. Graves, M.D.,* 67 FR 70968 (2002); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 53 FR 11919 (1988).

Here, it is clear that Dr. Bek's medical license is currently suspended and therefore, he is not currently licensed to handle controlled substances in the State of Indiana, the state where he maintains a DEA controlled substance registration. Therefore, Dr. Bek is not entitled to a DEA registration in that state. Because Dr. Bek is not entitled to a DEA registration in Indiana due to his lack of state authorization to handle controlled substances, the Acting Deputy Administrator concludes that it is unnecessary to address whether his registration should be revoked based upon the other grounds asserted in the Notice of Immediate Suspension of Registration and Order to Show Cause. *See Fereida Walker-Graham, M.D.,* 68 FR 24761 (2003); *Nathaniel-Aikens-Afful, M.D.,* 62 FR 16871 (1997); *Sam F. Moore, D.V.M.,* 58 FR 14428 (1993).

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AB5580243, issued to Jong H. Bek, M.D. be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective February 9, 2004.

Dated: December 18, 2003.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–341 Filed 1–7–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

City Drug Company; Denial of Application

On November 19, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to City Drug Company (City Drug) notifying the applicant of an opportunity to show cause as to why DEA should not deny its pending