substances in Florida, the jurisdiction in which it is registered with DEA. In granting the Government's motion, Judge Bittner further recommended that Respondent's DEA registration be revoked and any pending applications be denied. According to the letter transmitting this matter to the Deputy Administrator, no exceptions were filed by either party to the Opinion and Recommended Decision.

The Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon the findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommenced Decision of the Administrative Law Judge.

The Deputy Administrator finds that Respondent currently possesses DEA Certificate of Registration RB7139238 and is registered to handle controlled substances in Florida as a retail pharmacy. The Deputy Administrator's review of the November 20, 2003, letter from Respondent's counsel to the Florida Board of Pharmacy reveals that after receiving the order of immediate suspension of its DEA registration, Respondent surrendered its pharmacy permit to the Board of Pharmacy. It appears from this action that Respondent surrendered its authority to handle controlled substances in Florida and, as a result, lacks a necessary prerequisite for DEA registration. There is no evidence before the Deputy Administrator that Respondent's pharmacy permit has been returned or reinstated or that Respondent is currently licensed in Florida as a retail pharmacy. Accordingly, it is reasonable to infer that Respondent is 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 Prescriptionline.com,* 69 FR 5583 (2004); *Graham Travers Schuler, M.D.,* 65 FR 50,570 (2000); *Wingfield Drugs, Inc.,* 52 FR 27,070 (1987). The agency has also maintained this standard in matters involving the immediate suspension of a DEA Certificate of Registration under 21 U.S.C. 824(d). *See Chemical Dependence Associates of Houston,* 58 FR 37505 (1993).

Here, Respondent is currently not licensed to handle controlled substances in Florida, the state where it maintains its registration with DEA. Therefore, Respondent is not entitled to maintain that registration. Because Respondent is not entitled to a DEA registration in Florida due to its lack of state authorization to handle controlled substances, the Deputy Administrator concludes it is unnecessary to address whether Respondent's registration should be revoked based upon the public interest grounds asserted in the Order to Show Cause and Immediate Suspension of Registration. *See Deanwood Pharmacy,* 68 FR 41662 (2003); *Nathaniel-Aikens-Afful, M.D.,* 62 FR 16871 (1997); *Greenbelt Professional Pharmacy,* 57 FR 55000 (1992).

Accordingly, the 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, BR7139238, issued to RX Network of South Florida, LLC, be, and it hereby is, revoked. The 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 November 22, 2004.

Dated: October 5, 2004.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 04–23715 Filed 10–21–04; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Daniel Ortiz-Vargas, M.D.; Revocation of Registration

On March 2, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Daniel Ortiz-Vargas, M.D. (Respondent) of Yauco, Puerto Rico, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BO6085395, as practitioner, under 21 U.S.C. 824(a)(5) and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Respondent had been mandatorily excluded from participating in federal health programs pursuant to 42 U.S.C. 1320–7(a).

By letter dated March 28, 2004, Respondent, through legal counsel, requested a hearing. On April 20, 2004, Administrative Law Judge Gail A. Randall (Judge Randall) issued an Order for Prehearing Statements, requiring the Government and Respondent to file prehearing statements by May 11 and June 1, 2004, respectively. The Government filed a timely prehearing statement, however, Respondent failed to file his prehearing statement by the deadline.

On June 29, 2004, Judge Randall issued a *sua sponte* Notice and Order to Respondent allowing him a limited extension of time, until July 21, 2004, to file his prehearing statement. The Notice and Order cautioned Respondent that if he failed to meet this deadline, Judge Randall would deem his inactivity to be a waiver of his hearing entitlement and that she would issue an order terminating the case. Respondent did not file a prehearing statement and on August 10, 2004, Judge Randall issued her Order terminating the proceedings. On August 26, 2004, the Office of Chief Counsel forwarded the record to the Deputy Administrator for entry of a final order based on the investigative file.

Therefore, the Deputy Administrator finds that Respondent, having requested a hearing but having failed to participate in the matter after being apprised of the consequences, is deemed to have waived his hearing right. *See Bill Lloyd Drug,* 64 FR 1823–01 (1999); *Vincent A. Piccone, M.D.,* 62 FR 62,074 (1997). After considering material from the investigative file, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Respondent currently possesses DEA Certificate of Registration BO6085395. The Deputy Administrator further finds that as a result of Respondent's fraudulent activities, pursuant to his guilty plea, he was convicted in the United States District Court, District of Puerto Rico of one count of conspiring to solicit and receive kickbacks in relation to Medicare referrals for durable medical equipment, in violation of 18 U.S.C. 371. On September 17, 2002, he was sentenced to three years probation.

As a result of Respondent's conviction, on January 31, 2003, he was notified by the Department of Health and Human Services of his five-year mandatory exclusion from participation in the Medicare program pursuant to 42 U.S.C. 1320a–7(a). Exclusion from Medicare is an independent ground for revoking a DEA registration. 21 U.S.C. 824(a)(5); *see Johnnie Melvin Turner, M.D.,* 67 FR 71,203 (2002). The underlying conviction forming the basis for registrant's exclusion from participating in Federal health care programs need not involve controlled

substances for revocation under 21 U.S.C. 824(a)(5). *See KK Pharmacy,* 64 FR 49,507 (1999); *Stanley Dubin, D.D.S.,* 61 FR 60,727 (1996).

Accordingly, the 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 BO6085395, issued to Daniel Ortiz-Vargas, 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 November 22, 2004.

Dated: October 5, 2004.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 04–23710 Filed 10–21–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Serge V. Verne, D.D.S. Revocation of Registration

On October 30, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Serge V. Verne, D.D.S. (Dr. Verne) at his registered location in San Diego, California, with a second copy sent to a location in Rancho Santa Fe, California. Dr. Verne was notified of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BV2328830, under 21 U.S.C. 824(a), and deny any pending applications for renewal or modification of that registration. Specifically, the Order to Show Cause alleged that Dr. Verne was without state license to handle controlled substances in the State of California. The Order to Show Cause also notified Dr. Verne that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

As alluded to above, copies of the Order to Show Cause were sent by certified mail to Dr. Verne at two separate locations. According to the investigative file, the copy sent to the San Diego location was returned to DEA unclaimed, however, the second show cause order sent to the Rancho Santa Fe location was accepted on Dr. Verne's behalf on November 19, 2003. DEA has not received a request for hearing or any other reply from Dr. Verne or anyone purporting to represent him in this matter.

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

The Deputy Administrator finds that Dr. Verne is currently registered with DEA as a practitioner authorized to handle controlled substances in Schedules II through V. According to information in the investigative file, effective May 8, 2003, the Dental Board of California (Dental Board) ordered the revocation of Dr. Verne's license to practice dentistry in that state. The Dental Board's action was based in part upon findings that Dr. Verne provided false and misleading information regarding his continuing education, and his use of fraud in the procurement of his dental license and general anesthesia permit. There is no evidence before the Deputy Administrator to rebut findings that Dr. Verne's California dental license has been revoked and has not been reinstated. Therefore, the Deputy Administrator finds that since Dr. Verne is not currently authorized to practice dentistry in California, it is reasonable to infer that he is not authorized 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* Richard J. Clement, M.D., 68 FR 12,103 (2003); Dominick A. Ricci, M.D., 58 FR 51,104 (1993); Bobby Watts, M.D., 53 FR 11,919 (1988).

Here, it is clear that Dr. Verne is not licensed to handle controlled substances in California, where he is registered with DEA. Therefore, he is not entitled to maintain that registration.

Accordingly, the 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, BV2328830, issued to Serge V. Verne, D.D.S., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of the aforementioned registration be, and hereby are, denied. This order is effective November 22, 2004.

Dated: October 5, 2004.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 04–23716 Filed 10–21–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 1, 2004.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 1, 2004.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 15th day of October 2004.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.