addressed to Mr. Del Kidd, Bureau of Reclamation, Lower Colorado Region, P.O. Box 61470, Boulder City, NV 89006–1470, telephone: (702) 293–8698.

**SUPPLEMENTARY INFORMATION:** The City and County of San Diego depend upon imported water for about 90 percent of their needs. Most of this water comes from the State Water Project and the Colorado River. It is estimated that by 2010 the demand for potable water will reach 900,000 acre-feet per year. Imported water currently accounts for 690,000 acre-feet with another 60,000 acre-feet from local supplies. This means that in the near future there will be a short fall of 150,000 acre-feet of demand over supply. Federal, State, and local entities are actively investigating and planning other potential water sources for the southern California region, such as other water reclamation projects, groundwater development, seawater desalination, and water conservation. Some of these will be implemented in the future; others are infeasible at this time. This proposed project is one of the more feasible options for meeting future water demands.

The Bureau of Reclamation is authorized to participate in this proposed project by Section 1612 of Public Law 102–575.

Dated: February 9, 1996.

Thomas Shrader,

*Deputy Office Director, Resource Management and Technical Services.*

[FR Doc. 96–3564 Filed 2–15–96; 8:45 am]

**BILLING CODE 4310–94–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 94–62]**

### James W. Shore, M.D., Denial of Application

On July 6, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James W. Shore, M.D., (Respondent) of Martin, Tennessee, notifying him of an opportunity to show cause as to why DEA should not deny his pending application for registration as a practitioner, under 21 U.S.C. 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged, among other things, that (1) in May of 1991, the Respondent's medical license was placed on probation for two years, and his authority to handle Schedule II and III controlled substances was suspended for one year, as a result of his prescribing Schedule II controlled substances and anabolic steroids in a manner which violated State law; and (2) on October 25, 1991, the Respondent entered a guilty plea in the U.S. District Court for the Western District of Tennessee, to three felony counts of unlawfully prescribing a controlled substance, and he was sentenced to eighteen months probation and ordered to surrender his controlled substances registration.

On July 21, 1994, the Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Memphis, Tennessee, on January 11, 1995, before Administrative Law Judge Mary Ellen Bittner. At the hearing both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On July 10, 1995, Judge Bittner issued her Opinion and Recommended Ruling, recommending that the Respondent's application for DEA registration be denied. Neither party filed exceptions to her decision, and on August 28, 1995, 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 uppon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Deputy Administrator finds that on June 16, 1993, the Respondent signed a DEA Application for Registration as a practitioner, seeking registration to handle Schedules II through V controlled substances. On that application, the Respondent disclosed that he had had restrictions placed upon his practice of medicine and his prescribing of controlled substances. The parties do not contest the facts concerning the Respondent's past misconduct in prescribing controlled substances. Also, the parties have stipulated that (1) Biphetamine is a brand name for a product containing amphetamine, a Schedule II controlled substance pursuant to 21 CFR 1308.12(d); (2) Percodan and Percocet are brand names for products containing oxycodone, a Schedule II narcotic controlled substance pursuant to 21 CFR 1308.12(b); (3) Fastin is a brand name for a product containing phentermine hydrochloride, a Schedule IV controlled substance pursuant to 21 CFR 1308.14(e); (4) Tylox is a brand name for a product containing oxycodone, a Schedule II narcotic controlled substance pursuant to 21 CFR 1308.12(b); and (5) anabolic steroids are Schedule III controlled substances pursuant to 21 CFR 1308.13(f).

The Deputy Administrator specifically finds that on May 8, 1986, an undercover agent for the Tennessee Bureau of Investigation (TBI), received two prescriptions for Biphetamine from the Respondent for no legitimate medical purpose and not in the usual course of his professional practice, for the Respondent had failed to take a medical history, to conduct a physical examination of the agent and to diagnose a condition requiring such medication. On July 10, 1986, a second TBI agent received two prescriptions for Biphetamine from the Respondent for no legitimate medical purpose and not in the usual course of his professional practice, for again the Respondent had failed to conduct a physical examination or any other clinical tests, and he had failed to identify a medical condition requiring such a prescription. In the same manner, on June 16, 1986, an undercover police officer acquired from the Respondent two prescriptions for the controlled substance Fastin for no legitimate medical purpose and not in the usual course of professional practice. Tape recordings were made of the conversations between these law enforcement officials and the Respondent, and transcripts of these tape recordings were made a part of the record.

As part of its investigation of the Respondent's conduct, the Tennessee Board of Pharmacy conducted a prescription audit of prescriptions issued by the Respondent in Weakley County, Tennessee, from February of 1984 through February of 1987. This prescription audit was sent to Dr. Harbison, a research scientist, pharmacist, and teacher at the University of Arkansas, for his review and comment. Dr. Harbison wrote that the Respondent had prescribed controlled substances not in the usual course of medical practice to more than a dozen patients, concluding that ''it is my opinion that after reviewing the prescription records, [the Respondent] did not prescribe [] Biphetamine, Tylox, Percocet, Percodan [,] and Mepergan Fortis in a manner consistent with the usual course of medical practice.''

In May of 1991, as a result of this conduct, the Respondent entered an agreed order with the State of Tennessee State Board of Medical Examiners (Medical Board), resulting in his medical license being placed on probation for two years, and his Schedule II and III controlled substances privileges being suspended for one year. The Medical Board found that the Respondent had prescribed Schedule II drugs ''on a routine, chronic, long term basis with little or no documented medical reasoning for such continued prescribing,'' and that the Respondent had engaged in conduct which violated State law, to include State laws governing prescribing of controlled substances. Also, on October 25, 1991, the Respondent entered a guilty plea in the U.S. District Court for the Western District of Tennessee for three felony counts of unlawfully prescribing a controlled substance. As part of his plea agreement, the Respondent agreed to surrender his DEA registration in Schedules II through IV, which he did on November 26, 1991. He was also sentenced to eighteen months of supervised probation, which was successfully completed by the Respondent on April 9, 1993. In May of 1993, the Medical Board terminated the probation of the Respondent's medical license, renewing it without restrictions.

During the hearing before Judge Bittner, one of the Respondent's current employers, the business manager of the Martin Medical Center in Martin, Tennessee, testified that he was familiar with the criminal and administrative proceedings involving the Respondent. He opined that the Respondent would not engage in similar misconduct in the future, and that he was aware that the Respondent had received remedial training at the Vanderbilt University School of Medicine. He also testified about the professional limitations caused by the Respondent's lack of a DEA Certificate of Registration, including his suspension from practicing in a preferred provider organization, and his difficulties in participating in TennCare, Tennessee's Medicaid program. Also, the Respondent's patients had problems getting mail order prescription drug suppliers to fill the Respondent's prescriptions.

The Respondent testified that he had attended a two-day course at Vanderbilt University primarily for ''impaired physicians.'' Specifically, the course focused on the philosophy of prescribing, giving the Respondent the ability to recognize drug-seeking behavior. The Respondent testified that the course ''also made me look in my soul and my heart and try to identify my feelings toward why these people were able to manipulate me like they did.'' However, the course did not provide training in pharmacology or the therapeutics of pharmacology with regard to specific substances, and when questioned by the Government's counsel, the Respondent had difficulty discussing such concepts as ''benzodiazepam loading'', and in identifying the dangers of chronic use of sedative hypnotics. Finally, the Respondent testified about his need for a DEA Certificate of Registration in his current medical practice.

Pursuant to 21 U.S.C. 823(f), the Deputy 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 that the following factors be considered:

(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 or safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a 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 denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16422 (1989).

In this case, factors one through four are relevant in determining whether granting the Respondent's application would be inconsistent with the public interest. As to factor one, ''recommendation of the appropriate State licensing board,'' the Medical Board found that the Respondent had prescribed Schedule II controlled substances in a manner which violated State law. Accordingly, that Board took disciplinary action against the Respondent.

As to factor two, the Respondent's ''experience in dispensing * * * controlled substances,'' and factor four, the Respondent's ''[c]ompliance with applicable State, Federal, or local laws relating to controlled substances,'' it is undisputed that the Respondent prescribed controlled substances without a legitimate medical purpose and outside the usual course of medical practice in violation of both State and Federal law. Specifically, his conduct of prescribing controlled substances without taking a medical history, conducting a medical examination or clinical tests, or identifying a medical condition warranting the medications, violated the legal requirements for prescribing controlled substances.

As to factor three, the Respondent's conviction record under Federal laws, the Respondent was convicted in Federal court of three felony counts of unlawfully prescribing a controlled substance as a result of the previously described unlawful conduct.

Further, the Deputy Administrator notes that the Respondent has taken some responsibility for his misconduct, as evidenced by his entering an agreed order with the Medical Board, and his entry of a guilty plea in Federal court. Further, he has successfully completed his probation and a course at the Vanderbilt University on prescribing practices. He has also stated remorse for his past misconduct.

However, the remedial course taken by the Respondent did not provide training in pharmacology or the therapeutics of pharmacology, and the Respondent's testimony before Judge Bittner disclosed the Respondent's deficiencies in this area. Further, the Deputy Administrator finds compelling Judge Bittner's observations:

> [The] Respondent's only explanation for his prescribing practices was that he was manipulated by his patients * * * Respondent did not, however, explain how he would avoid being manipulated in the future or why he prescribed controlled substances upon request in the first place. In any event, purported manipulation cannot justify prescribing thousands of dosage units of controlled substances over a period of several years.
>
> In addition, the transcripts of Respondent's conversations with the under cover officers show that Respondent initiated the discussion of stimulants * * *. Neither of these 'patients' manipulated [the] Respondent into issuing him prescriptions, and [the] Respondent does not contend otherwise * * *. In addition, [the] Respondent told the Medical Board that he believed that the Schedule II drugs he prescribed did no harm and presented only minimal risks to the patients, comments evidencing an extremely cavalier attitude toward controlled substances.

Therefore, the Deputy Administrator finds that the public interest is best served by denying the Respondent's application at this time. The Deputy Administrator realizes that the Respondent's misconduct occurred

almost ten years ago, but evidence of the Respondent's ''cavalier attitude'' occurred in 1991 before the Medical Board, and in 1994 in the hearing before Judge Bittner. As Judge Bittner noted, the DEA has previously determined that ''[t]he paramount issue is not how much time has elapsed since [the Respondent's] unlawful conduct, but rather, whether during that time [the] Respondent has learned from past mistakes and has demonstrated that he would handle controlled substances properly if entrusted with a DEA registration.'' Leonardo V. Lopez, M.D., 54 FR 36915 (1989). Here, the Deputy Administrator is currently not convinced that the Respondent would properly handle controlled substances if his registration is granted.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 28 CFR 0.100(b) and 0.104, hereby orders that the pending DEA Certificate of Registration application of James W. Shore, M.D., be, and it hereby is, denied. This order is effective March 18, 1996.

Dated: February 12, 1996.

Stephen H. Greene,

*Deputy Administrator.*

[FR Doc. 96–3508 Filed 2–15–96; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF LABOR

### Employment Standards Administration

### Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interested in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and State:

*Volume III*

FL9550099 (Feb. 16, 1996)
FL9550100 (Feb. 16, 1996)
FL9550101 (Feb. 16, 1996)

*Volume IV*

Michigan
MI1950064 (Feb. 16, 1996)

*Volume VI*

California
CA950031 (Feb. 16, 1996)
CA950032 (Feb. 16, 1996)
CA950033 (Feb. 16, 1996)
CA950034 (Feb. 16, 1996)
CA950035 (Feb. 16, 1996)
CA950036 (Feb. 16, 1996)
CA950037 (Feb. 16, 1996)
CA950038 (Feb. 16, 1996)
CA950039 (Feb. 16, 1996)
CA950040 (Feb. 16, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

*Volume I*

New Hampshire
NH950003 (Feb. 10, 1995)
New Jersey
NJ950002 (Feb. 10, 1995)
NJ950003 (Feb. 10, 1995)
New York
NY950008 (Feb. 10, 1995)
NY950010 (Feb. 10, 1995)
NY950018 (Feb. 10, 1995)
NY950021 (Feb. 10, 1995)
NY950026 (Feb. 10, 1995)
NY950031 (Feb. 10, 1995)
NY950034 (Feb. 10, 1995)
NY950037 (Feb. 10, 1995)
NY950044 (Feb. 10, 1995)

*Volume II*

None

*Volume III*

Florida
FL950010 (Feb. 10, 1995)
FL950015 (Feb. 10, 1995)
FL950034 (Feb. 10, 1995)
FL950055 (Feb. 10, 1995)
FL950060 (Feb. 10, 1995)
Georgia
GA950022 (Feb. 10, 1995)