The action on Calbiochem-Novabiochem Corporation's 1995 application to import amphetamine was docketed before Administrative Law Judge (ALJ) Mary Ellen Bittner.

By letter to the ALJ, dated August 31, 1995, the registered manufacturer withdrew its request for a hearing based on Calbiochem-Novabiochem Corporation's agreement to withdraw its application to be registered with DEA to manufacture amphetamine. The ALJ terminated the administrative proceeding on October 2, 1995. As of October 1, 1996, Calbiochem-Novabiochem Corporation has not filed a request for withdrawal of its 1995 application for registration as a bulk manufacturer of amphetamine and, therefore, DEA did not process that application. By letter dated October 25, 1996, Calbiochem-Novabiochem Corporation's request that amphetamine be deleted from its 1996 renewal application for registration.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Calbiochem-Novabiochem Corporation is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above with the exception of amphetamine (1100).

Dated: February 26, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–7878 Filed 3–27–97; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 96–46]

Charles R. Griffin, Jr., D.D.S. Revocation of Registration

On August 15, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles R. Griffin, Jr., D.D.S. (Respondent), of Tucson, Arizona, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BG4084593, and deny any pending applications for registration as a practitioner pursuant to 21 U.S.C. 823(f) and 824(a)(3), for reason that he is not currently authorized to practice dentistry in the State of Arizona.

Respondent timely requested a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On October 21, 1996, Judge Bittner issued an Order for Prehearing Statements. On October 30, 1996, the Government filed a Motion for Summary Disposition, alleging that effective May 12, 1995, the Arizona State Board of Dental Examiners (Board) revoked Respondent's license to practice dentistry, and as a result, Respondent is not currently authorized to handle controlled substances in the State of Arizona. Respondent did not file a response to the Government's motion. However, in his letter requesting a hearing, Respondent did not dispute that he was not authorized to handle controlled substances, but rather asked for a postponement of the revocation proceeding since he is seeking reinstatement of his license either by judicial action or by approval of his application for reinstatement with the Board.

On November 27, 1996, Judge Bittner issued her Opinion and Recommended Decision, finding that Respondent lacked authorization to handle controlled substances in the State of Arizona; granting the Government's Motion for Summary Disposition; and recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her opinion, and on January 8, 1997, Judge Bittner transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting 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 Acting Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Acting Deputy Administrator finds that by Order dated May 12, 1995, the Board revoked Respondent's license to practice dentistry in the State of Arizona. Like Judge Bittner, the Acting Deputy Administrator finds it reasonable to infer that because Respondent is not licensed to practice dentistry in Arizona, he is also not authorized to handle controlled substances in that State.

DEA does not have the 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. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 Fed. Reg. 51,104 (1993); James H. Nickens, M.D., 57 Fed. Reg. 59,847 (1992); Roy E. Hardman, M.D., 57 Fed. Reg. 49,195 (1992). Since the record is clear that Respondent is not authorized to handle controlled substances in the State of Arizona, as Judge Bittner notes, ''[i]t is equally clear that * * * Respondent is not currently entitled to a DEA registration.''

Judge Bittner also properly granted the Government's Motion for Summary Disposition. Here, the parties did not dispute the fact that Respondent was unauthorized to handle controlled substances in Arizona. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Phillip E. Kirk, M.D., 48 Fed. Reg. 32,887 (1983), aff'd sub nom *Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO*, 549 F.2d 634 (9th Cir. 1977); *United States* v. *Consolidated Mines & Smelting Co.*, 44 F.2d 432 (9th Cir. 1971).

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BG4084593, previously issued to Charles R. Griffin, Jr., D.D.S., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are denied. This order is effective April 28, 1997.

Dated: March 14, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–7882 Filed 3–27–97; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 22, 1996, Johnson & Johnson Pharmaceutical Partners, HC–02 State Road 933, KMO.1 Mamey Ward, HC–02 Box 19250, Gurabo, Puerto Rico 00778–

9629, made application by renewal, which was received for processing February 14, 1997, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of sufentanil (9740), a basic class of controlled substance in Schedule II.

The firm plans to manufacture the listed controlled substance for bulk distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 27, 1997.

Dated: February 28, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–7879 Filed 3–27–97; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 95–25]

Jesus R. Juarez, M.D. Revocation of Registration

On February 27, 1995, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Jesus R. Juarez, M.D. (Respondent), of Fresno, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BJ0925290, and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged as grounds for the proposed action that Respondent's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 824(a)(4), and that pursuant to 21 U.S.C. 824(a)(2), Respondent had been convicted of a controlled substance related felony offense.

Respondent, through counsel, filed a timely request for a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held on February 27 and 28, 1996, in Fresno, California. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument. On July 24, 1996, while the matter was still pending before Judge Bittner, counsel for the Government filed a Motion for Summary Disposition, alleging that Respondent is currently without authority to handle controlled substances in the State of California. The motion was supported by a copy of the Proposed Decision of an Administrative Law Judge for the Medical Board of California recommending that Respondent's state license to practice medicine be revoked, and by a copy of the Decision of the Medical Board dated July 10, 1996, adopting the Proposed Decision effective August 9, 1996.

Respondent filed a response to the Government's Motion for Summary Disposition on August 15, 1996, stating that the Medical Board's decision was not yet final because Respondent had petitioned for a rehearing, and if unsuccessful, would seek judicial review of the Medical Board's action. Respondent, however, did not deny that he was currently without authority to handle controlled substances in the State of California.

Thereafter, on August 21, 1996, Judge Bittner issued her Opinion and Recommended Decision, finding that based upon the evidence before her, Respondent lacked authorization to handle controlled substances in the State of California and therefore, he was not entitled to a DEA registration in that state; granting the Government's Motion for Summary Disposition; and recommending that Respondent's application for DEA registration be denied. Neither party filed exceptions to her opinion, and on September 23, 1996, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Deputy Administrator finds that on June 20, 1996, an Administrative Law Judge for the Medical Board of California recommended that Respondent's license to practice medicine in the State of California be revoked. On July 10, 1996, the Medical Board of California adopted the Proposed Decision of the Administrative Law Judge effective August 9, 1996. As Judge Bittner noted, it is reasonable to infer ''that because [Respondent] is not authorized to practice medicine, he is also not authorized to handle controlled substances.'' Respondent argues that the revocation of his license to practice medicine in the State of California is not yet final because he is seeking a rehearing before the Medical Board. However, Respondent does not dispute that he is currently without authority to handle controlled substances in California.

The DEA does not have the 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. 21 U.S.C. 801(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 Fed. Reg. 51,104 (1993); James H. Nickens, M.D., 57 Fed. Reg. 59,847 (1992); Roy E. Hardman, M.D., 57 Fed. Reg. 49,195 (1992). Accordingly, the Acting Deputy Administrator concurs with Judge Bittner's conclusion that Respondent is not currently authorized to handle controlled substances in the State of California and therefore is not entitled to a DEA registration in that state. The Acting Deputy Administrator concurs with Judge Bittner's recommendation that Respondent's application be denied, but also finds that Respondent's DEA registration must be revoked based upon his lack of authorization to handle controlled substances in California.

The Acting Deputy Administrator finds that Judge Bittner properly granted the Government's Motion for Summary Disposition. Here, the parties did not dispute the fact that Respondent was unauthorized to handle controlled substances in California. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., supra, (finding it well settled that where there is no question of material fact involved, a plenary, adversarial administrative hearing was not required.); see also Phillip E. Kirk, M.D., 48 Fed. Reg. 32,887 (1983), aff'd sub nom *Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO*, 549 F.2d 634 (9th Cir. 1977).

The Acting Deputy Administrator concludes that because Respondent is not entitled to a DEA registration due to his lack of state authorization to handle controlled substances, it is unnecessary to address whether Respondent's registration should be revoked based upon the grounds alleged in the Order to Show Cause.