1995, based upon a finding of medical incompetency and a finding of continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in the State of Louisiana. The Acting Deputy Administrator finds that in light of the fact that Dr. Golden is not currently licensed to practice medicine in the State of Louisiana, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

The 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 his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16193 (1997); *Demetris A. Green, M.D.*, 61 FR 60728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993).

Dr. Golden did not dispute that he is not authorized to handle controlled substances in Louisiana. Therefore, in light of his lack of authorization in Louisiana, Dr. Golden is not entitled to a DEA registration in that state. However, the Acting Deputy Administrator finds that revocation of Dr. Golden's registrations is not appropriate. The suspension of Dr. Golden's state privileges expires on September 1, 1997, and presumably at that time he will be authorized to handle controlled substances in the State of Louisiana. Given that his state suspension was not based upon his handling of controlled substances and that his privileges will be reinstated in approximately one month, the Acting Deputy Administrator concludes that Dr. Golden's DEA registrations should be suspended until such time as his state privileges are reinstated.

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 CFR 0.100(b) and 0.104, hereby orders that DEA Certificates of Registration, BG3086306 and BG3039218, previously issued to David Golden, M.D., be, and they hereby are, suspended until his state license to practice medicine in Louisiana is reinstated and he is thereby authorized to handle controlled substances in that state. The suspension shall remain in effect until the DEA office in New Orleans receives notification from Dr. Golden that his state privileges have been reinstated. Regarding any pending applications for registration submitted by David Golden, M.D., the Acting Deputy Administrator orders that these applications shall be granted upon DEA's receipt of notification from Dr. Golden that his state privileges have been reinstated and that he still desires to be registered at the address listed on the application. This order is effective August 7, 1997.

Dated: August 1, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–20786 Filed 8–6–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–45]

Rick's Pharmacy, Inc., Continuation of Registration With Restrictions

On August 29, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Rick's Pharmacy, Inc., (Respondent) of Clayton, New Mexico, notifying it of an opportunity to show cause as to why DEA should not revoke its DEA Certificate of Registration, BR0924440, under 21 U.S.C. 824 (a)(2) and (a)(4), and deny any pending applications for registration as a retail pharmacy under 21 U.S.C. 823(f), for reason that its owner/pharmacist has been convicted of a controlled substance related felony offense and that its continued registration would be inconsistent with the public interest.

By letter dated September 5, 1996, Respondent, through counsel, filed a timely request for a hearing. In the midst of prehearing proceedings, Respondent's counsel filed a motion to withdraw as counsel, which was granted. Thereafter, Respondent was represented by Rick Balzano, the principal shareholder and pharmacist of Respondent. A hearing was held in Santa Fe, New Mexico on February 5, 1997, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses and introduced documentary evidence. After the hearing, Government counsel submitted proposed findings of fact, conclusions of law and argument, and Respondent submitted a letter setting forth its position. On May 16, 1997, Judge Randall issued her Opinion and Recommended Ruling, recommending that Respondent's registration be continued subject to certain conditions. On June 6, 1997, Government counsel filed exceptions to the Opinion and Recommended Ruling of the Administrative Law Judge, and on June 18, 1997, Judge Randall transmitted the record of these proceedings, including the Government's exceptions 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, except as specifically noted below, the Opinion and Recommended Ruling of the Administrative Law Judge. 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 Acting Deputy Administrator finds that Rick Balzano purchased Respondent pharmacy with his parents in 1987. Mr. Balzano is the president and pharmacist-in-charge of Respondent, his father is the vice president and his mother is the secretary and treasurer. In addition to Respondent pharmacy, there is only one other retail pharmacy and one hospital pharmacy in Clayton, New Mexico, with the next closest pharmacy approximately 82 miles from Clayton. Mr. Balzano is one of only two pharmacists practicing in Clayton.

On October 6 and 7, 1992, New Mexico Board of Pharmacy inspectors went to Respondent pharmacy to conduct a routine inspection and audit of controlled substances. According to Mr. Balzano, by the time the inspectors arrived at the pharmacy at 4:00 p.m. on the first day, he had already consumed approximately 50 controlled substance pills.

The audit covered the period from January 6, 1991 to October 6, 1992, and revealed overages and shortages for all of the audited substances. Significantly, Respondent could not account for 19,394 dosage units of Lortab 7.5 mg.; 8,201 dosage units of phentermine 30 mg.; 2,100 dosage units of ''Darvon Compound-65 generic''; 1,430 dosage units of Halcion 0.25 mg.; 1,121 dosage units of temazepam 30 mg.; 1,546 dosage units of clorazepate 7.5 mg.; 1,244 dosage units of diazepam 10 mg.; 2,800 dosage units of Roxicet; and 1,397 dosage units of Tylox. Significant overages, where Respondent could account for more of a drug than it was accountable for include, 1,521 dosage units of Darvon-N-100; 1,606 Wygesic generic; and 1,994 Tranxene 3.75 mg.

On October 28, 1992, the inspectors went to Respondent pharmacy to return the records used in conducting the audit and to discuss the audit with Mr. Balzano. At that time, Mr. Balzano

admitted that he had a drug abuse problem. Mr. Balzano testified at the hearing in this matter that his tolerance to the drugs built up to the point that he could ingest more than 50 pills per day. He admitted to personally taking a number of the missing controlled substances, including lorazepam, Ativan, Dalmane, flurazepam, Fastin, phentermine, Halcion, Restoril, temazepam, Valium, diazepam, Xanax, Lorcet, Lortab, Vicodin, Dexedrine, Percodan, Roxiprin, Percocet, Roxicet, and Tylox. However, Mr. Balzano denied taking the remaining substances that were unaccounted for during the audit period. He suggested at the hearing that had he been given an opportunity to explain the audit discrepancies, the overages and shortages may have balanced each other out based upon the dispensing of a generic substance when a brand name substance had been prescribed or based upon the potential labeling or mislabeling of the substances.

During the investigation, the New Mexico Board of Pharmacy inspectors discovered several prescriptions apparently issued by a local dentist for Mr. Balzano and other patients. The dentist denied writing any of the prescriptions for Mr. Balzano, and Mr. Balzano ultimately admitted that he had forged several of the dentist's prescriptions. Mr. Balzano also admitted filling prescriptions that had been issued by the dentist for individuals for the stimulant drugs, phentermine and Fastin. In addition, the inspectors discovered 16 prescriptions for Fastin for an individual that were allegedly written by a local physician. The physician denied writing these prescriptions, and Mr. Balzano admitted at the hearing in this matter to improperly dispensing the drugs. Finally, the investigation revealed several prescriptions for family members allegedly authorized by Mr. Balzano's brother who is a dentist. Dr. Balzano indicated to the inspectors that he had not authorized some of these prescriptions, and Mr. Balzano testified that he now understands that he should not have dispensed these controlled substances.

Mr. Balzano testified that after the inspectors were at Respondent pharmacy in early October 1992, he began his recovery efforts from drug addiction, and has not improperly taken any controlled substances since October 28, 1992. Which he began his recovery efforts on his own, in March 1993, he entered a local treatment center where he stayed for three weeks, during which time he closed Respondent pharmacy and informed the community of his drug abuse problem.[1] Following his in-patient treatment, Mr. Balzano signed a two-year voluntary contract with the Pharmacists' Recovery Network Committee of New Mexico (PRN) which required at least 12 random urine screens a year, attendance at 3 to 4 Alcoholics Anonymous or Narcotics Anonymous meetings per week, and attendance at monthly PRN meetings in Albuquerque, New Mexico. During the term, of the contract, Mr. Balzano underwent 22 random urine screens, and all were negative. According the PRN, Mr. Balzano complied with all the requirements of the contract. Following the expiration of the contract in March 1995, Mr. Balzano remained an active member of the PRN.

As a result of the investigation, information was filed in the United States District Court for the District of New Mexico, charging that Mr. Balzano knowingly and intentionally acquired 60 Lortab 7.5 mg. tablets, a Schedule III controlled substance, by forging the local dentist's name to a prescription in violation of 21 U.S.C. 843(a)(3). Thereafter, in March 1994, following Mr. Balzano's entering a plea of guilty, he was convicted of the felony offense of acquiring or obtaining a controlled substance by forgery, deception or subterfuge in violation of 21 U.S.C. 843(a)(3). Mr. Balzano was sentenced to two years probation, and on August 31, 1995, he was granted early termination of probation due to satisfactory behavior.

In August 1996, New Mexico Board of Pharmacy inspectors conducted another inspection at Respondent pharmacy. The inspector who testified at the hearing in this matter indicated that the following violations were revealed: (1) A required reference book, and the New Mexico Pharmacy Laws and Regulations were not on the premises; (2) a required ''Purchaser's Statement'' was missing from the exempt narcotic book; (3) the time of day was not properly recorded on the 1996 inventory; and (4) the practitioner's DEA registration number was not recorded on several prescription forms. The inspectors did not conduct an audit of controlled substances during this inspection. According to the inspector, the noted violations were corrected and Respondent pharmacy has been in compliance with these requirements since the August 1996 inspection.

Following a formal hearing on January 28, 1997, the New Mexico Board of Pharmacy (Board) issued a decision on February 24, 1997, regarding Mr. Balzano's pharmacist license. The Board found *inter alia*, that Mr. Balzano was the pharmacist-in-charge of Respondent; that the 1992 inspection revealed shortages of Schedule II, III and IV controlled substances; that Mr. Balzano was convicted in March 9, 1994 in the United States District Court of the District of New Mexico of one count of acquiring or obtaining a controlled substance by forgery, deception or subterfuge, and was sentenced to two years probation with conditions; that Mr. Balzano completed his probation and program with the PRN; and that Mr. Balzano admitted that he had a substance abuse problem and had the drugs for his own use. As a result, the Board placed Mr. Balzano on probation for two years, and his pharmacist's license was suspended for two years with all but 28 days held in abeyance pending successful completion of the probationary period. In addition, the Board ordered Mr. Balzano to sign a new five year contract with the PRN; to not dispense any controlled substances to himself or to his immediate family members; an to notify the Board of any personal controlled substance prescription ''with a copy of the prescription attached and a note from the prescribing authority that the prescription is medically indicated.'' Finally, the Board noted that, ''[i]f it comes to the attention of the Board that [Mr. Balzano] was violated the terms and conditions of probation, [Mr. Balzano's] license to practice will be immediately suspended pending a hearing before the Board.''

Respondent entered into evidence affidavits from the administrator of the local hospital, the president of a local bank, the chairman of the PRN, the assistant director of the PRN, several physicans, including the local dentist whose name Mr. Balzano had forged on the prescription for Lortab, and others. These individuals attested to Mr. Balzano's professional integrity and to the community's need for the continued operation of Respondent pharmacy.

The Deputy Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. § 824(a), upon a finding that the registrant:

* * * * *

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

* * * * *

(4) Has committed such acts as would render his registration under section 823 of

[1] In her opinion and Recommended Ruling, the Administrative Law Judge indicated that Respondent pharmacy remained closed for three months, however, Mr. Balzano testified that the pharmacy was closed for three weeks.

this title inconsistent with the public interest as determined under such section;

* * * * *

It is undisputed that Mr. Balzano was convicted on March 9, 1994, of a felony violation of 21 U.S.C. 843(a)(3). It is well settled that a pharmacy operates under the control of owners, stockholders, pharmacists or other employees, and if any such person is convicted of a felony offense related to controlled substances, grounds exist to revoke the pharmacy's registration under 21 U.S.C. 824(a)(2). *See Maxicare Pharmacy*, 61 FR 27,368 (1996); *Big-T Pharmacy, Inc.*, 47 FR 51,830 (1982). Therefore, the Acting Deputy Administrator concurs with Judge Randall's conclusion that the Government has proven by a preponderance of the evidence that grounds exist to revoke Respondent's registration under 21 U.S.C. 824(a)(2), based upon the controlled substance related felony conviction of its owner/pharmacist, Mr. Balzano.

Pursuant to 21 U.S.C. §§ 823(f) and 824(a)(4), the Deputy Administrator may also revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued 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 be denied. See *Henry J. Schwarz, Jr., M.D.*, Docket No. 88–42, 54 FR 16,422 (1989). In this case, all five factors are relevant.

As to factor one, it is undisputed that on February 24, 1997, the New Mexico Board of Pharmacy issued a decision placing Mr. Balzano on probation for two years and suspending his pharmacist license for two years with all but 28 days held in abeyance pending successful completion of the probationary period. As terms of his probation, the Board ordered Mr. Balzano to sign a five year contract with the PRN, prohibiting him from dispensing controlled substances to himself or to immediate family members, and required him to notify the Board if he obtained any personal controlled substance prescriptions.

Factors two and four, respondent's experience in dispensing controlled substances and compliance with state, Federal or local laws relating to controlled substances, are relevant in determining the public interest. The 1992 audit results which revealed significant overages and shortages of Schedule II–IV controlled substances indicated at the very least a failure to maintain complete and accurate records as required by 21 U.S.C. 827. However, Mr. Balzano admitted to diverting many of the missing drugs for his personal use in violation of under 21 U.S.C. 843(a)(3). Although Mr. Balzano admitted to having a drug abuse problem, he denied taking a significant number of the unaccounted for controlled substances. The Acting Deputy Administrator concurs with Judge Randall's finding that Mr. Balzano ''failed to provide a persuasive explanation for these shortages.''

Mr. Balzano admitted to other instances of improper dispensing of controlled substances. He admitted to forging several prescriptions for his personal use with the name of the local dentist in violation of 21 U.S.C. 829 and 843(a)(3). He admitted to filling prescriptions for Fastin/phentermine issued by a dentist not in the usual course of professional practice in violation of 21 U.S.C. 829 and 21 CFR 1306.04. Finally, he admitted to dispensing controlled substances to family members and to another individual without the appropriate authorization from a practitioner in violation of 21 U.S.C. 829 and 841.

The subsequent state audit conducted in 1996 revealed the following state regulatory violations: a required reference book and the New Mexico Pharmacy Laws and Regulations were not on the premises; a statement was missing in the exempt narcotic book; the time of day was not recorded on the 1996 inventory, and the practitioner's DEA registration number was not on several prescription forms.[2] Failure to record the time of the day on the inventory was also a violation of 21 CFR 1304.11, and failure to place the practitioner's DEA registration on prescriptions was also a violation of 21 CFR 1306.05. The Acting Deputy Administrator disagrees with Judge Randall's finding that ''although the 1996 Board inspection found administrative discrepancies, none of these errors involved the handling of controlled substances.'' Failure to note the time on a controlled substance inventory and failure to place a practitioner's DEA registration on prescriptions clearly are violations that relate to the handling of controlled substances. However, the Acting Deputy Administrator notes that since the 1996 inspection, Respondent has been in compliance with these requirements.

As to factor three, it is undisputed that Mr. Balzano, Respondent's owner/pharmacist was convicted in March 1994 of one count of acquiring or obtaining controlled substances by misrepresentation, fraud, forgery, deception, or subterfuge in violation of 21 U.S.C. 843(a)(3), as a result of his forging a local dentist's name to a prescription for Lortab in order to obtain controlled substances for his own use. As discussed previously, a pharmacy's registration may be revoked on the basis of the owner/pharmacist's felony conviction relating to controlled substances.

Regarding factor five, Mr. Balzano admitted that he had a substance abuse problem for a number of years. Further, he admitted that he diverted a significant amount of controlled substances from the pharmacy for his own use. A number of the missing drugs however, remain unaccounted for following the 1992 audit. The Acting Deputy Administrator agrees with Judge Randall and the Government, ''that the public health and safety was placed at risk by Mr. Balzano's lack of judgment and concern for the precision needed by a pharmacist to properly fill prescriptions for patients relying on his professionalism.''

The Government has proven by a preponderance of the evidence that grounds exist to revoke Respondent pharmacy's DEA registration under 21 U.S.C. 824(a)(4). However, like Judge Randall, the Acting Deputy Administrator finds that while ''Respondent's evidence in mitigation does not justify or excuses the misconduct of Mr. Balzano, [it is] significant and credible that he admitted to the extensive scope of his previous drug addiction and to his misconduct that flowed from his illness, to include the forging of prescriptions.'' Mr. Balzano last improperly used controlled

[2] The Government asserts that the inspection also revealed that Respondent failed to have controlled substance invoices readily retrievable. However, the testimony of the inspector at the hearing in this matter did not specifically address Respondent's failure to comply with this requirement of the state regulations.

substances in October 1992. He has undergone extensive rehabilitation treatment which will now continue until the year 2002 in light of the Board's recent decision requiring him to enter into a five year contract with the PRN.

It is significant that beyond diverting drugs from the pharmacy for his own use, Mr. Balzano forged prescriptions, and improperly dispensed controlled substances to his family members and others. In addition, the other shortages and overages revealed by the 1992 audit have yet to be explained. However, Mr. Balzano testified at the hearing in this matter that, ''I did some things when I was on drugs that I just cannot believe that I did them. You're a different person when you're on these drugs. I can't explain some of the things I did or why I did them.''

As noted above, Mr. Balzano has been free from drugs since October 1992, and Respondent has continued in operation since 1992 with no allegations of improper handling of controlled substances other than the several violations found during the August 1996 inspection which have since been corrected. Previously, DEA has held that while a lapse in time since the wrongdoing is not dispositive, it is a factor to be considered. *See Norman Alpert, M.D.,* 58 FR 67,420 (1993). In this case, it is significant that since the 1992 inspection, Mr. Balzano has undergone extensive treatment for his drug addiction, has remained drug-free, has accepted responsibility for his past misconduct, and has essentially remained in compliance with the laws and regulations relating to controlled substances. In addition, as Judge Randall noted that should Respondent's DEA registration be revoked, ''the residents of Clayton, New Mexico will be left with only one retail pharmacy * * * [and] will either have to use this pharmacy or travel 82 miles to the next closest pharmacy.''

Judge Randall concluded ''that the public interest will best be served by allowing the Respondent to continue with its Certificate of Registration with certain conditions'' beyond those required by the Board's decision. Judge Randall recommended that Respondent shall comply with the following terms for three years from the effective date of the final order:

(1) submit to the local DEA office a copy of the Respondent's state-required annual inventory;

(2) submit to the local DEA office the results of any audit or inspection conducted upon the Respondent by the Board; and

(3) notify the local DEA office within 5 work days in the event the New Mexico Pharmacy Board reinstates the suspension of Mr. Balzano's license. Judge Randall further recommended that ''[i]n the event Mr. Balzano ceases to work as the Respondent's pharmacist, the Respondent may apply to DEA to have these conditions removed from its Certificate of Registration.''

The Government filed exceptions to the Administrative Law Judge's Opinion and Recommended Ruling, arguing that the Administrative Law Judge failed to ''make a finding with respect to unexplained controlled substance shortages which were not alleged to have been consumed by Respondent's pharmacist,'' The Government argued that ''at a minimum, Respondent and pharmacist Balzano failed to keep complete and accurate records. * * *'' The Government further contended that the ''evidence of Mr. Balzano's activity with regard to unlawful distribution of controlled substances by falsified prescriptions * * * could support an inference that other missing controlled substances were also diverted.'' The Acting Deputy Administrator finds that the Administrative Law Judge, in considering factors two, four and five, did in fact find that Mr. Balzano did not provide a persuasive explanation for the missing drugs other than those he admitted to consuming. The Acting Deputy Administrator agrees with the Government's contention, that at a minimum, these shortages represent faulty recordkeeping. However, the Acting Deputy Administrator rejects the Government's argument that the evidence presented supports an inference that the missing drugs were diverted. While Mr. Balzano admitted that several forged prescriptions were filled and that controlled substances were improperly dispensed on several occasions, there was no evidence presented at the hearing which would warrant a finding that the unexplained shortages were the result of diversion.

The Government also argued in its exceptions that Judge Randall's ''recommended action in this matter is a departure from prior agency practice and policy.'' In support of its argument, the Government cited to several cases where a pharmacy's DEA registration was revoked based upon the improper dispensing of controlled substances and the conviction of the pharmacist for a felony offense relating to controlled substances. *See Farmacia Ortiz,* 61 FR 726 (1996)*; Dellmar Pharmacy #4,* 59 FR 46,066 (1994); and *Nasir Gore, T/A All Drugs Pharmacy, Inc.,* 59 FR 60,661 (1994). The Acting Deputy Administrator recognizes that the DEA registrations of these pharmacies were in fact revoked, however these cases can be distinguished from the instant proceeding. In this case, Respondent's owner/pharmacist admitted to a serious drug abuse problem which caused his misconduct. Mr. Balzano has accepted responsibility for his past behavior and has undergone extensive rehabilitation. He has been drug-free since October 1992, and will continue to be monitored by the PRN for a number of years. In addition, Respondent pharmacy has continued in operation since 1992 with no evidence of violations of a similar nature to those revealed by the 1992 inspection. Therefore, the Acting Deputy Administrator does not find that the Administrative Law Judge's recommendation to continue Respondent's registration subject to certain restrictions is a departure from prior agency practice. The Acting Deputy Administrator concludes that it is in the public interest to continue Respondent's registration in light of the foregoing, as well as the need for Respondent pharmacy in the community.

Nevertheless, the Acting Deputy Administrator does concur with the Government's contention that if Respondent's registration is to be continued, the restrictions imposed on its registration should more directly address the nature of Respondent's misconduct, than those restrictions recommended by Judge Randall. Mr. Balzano suffered from a serious drug abuse problem causing him to divert controlled substances from the pharmacy for his own use, to improperly dispense controlled substances to others, and at the very least, to fail to maintain complete and accurate records of controlled substances. Consequently, the Acting Deputy Administrator concludes that Respondent's registration shall be subject to the following conditions:

(1) If Mr. Balzano's contract with the PRN is terminated before the expiration of the five year term, Mr. Balzano shall continue to undergo random urinalysis at his own expense no less than one time per month for the original term of the contract. Results of these urine screens shall be submitted to the DEA office in Albuquerque, New Mexico.

(2) If Mr. Balzano's contract with the PRN is terminated before the expiration of the five year term, Mr. Balzano shall be prohibited from dispensing controlled substances to himself or members of his immediate family for the original term of the contract.

(3) For three years from the effective date of this final order, Respondent shall undergo an annual audit of

controlled substances conducted by an independent auditor hired by Respondent. Results of these audits shall be forwarded to the DEA office in Albuquerque, New Mexico.

(4) Respondent shall notify the local DEA office in Albuquerque, New Mexico within 5 work days in the event the New Mexico Pharmacy Board reinstates the suspension of Mr. Balzano's pharmacist license.

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 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BR0924440, issued to Rick's Pharmacy, Inc., be continued, and any pending applications for renewal be granted, subject to the above described restrictions. This order is effective September 8, 1997.

Dated: July 31, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–20787 Filed 8–6–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Existing Collection; Comment Request

ACTION: Extension of an existing collection: Application for action on an approved application or petition.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until October 6, 1997.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Action on an Approved Application or Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–824. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used to request a duplicate approval notice, to notify the U.S. Consulate that a person has been adjusted to permanent resident status so family member can apply for derivative immigrant visa and to request another U.S. Consulate be notified that a petition has been approved.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 43,772 respondents at 25 minutes (.416) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 18,209 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 24, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–20880 Filed 8–6–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Existing Collection; Comment Request

ACTION: Extension of an existing collection. Application for Replacement Naturalization/Citizenship Document.

The Department of Justice Immigration and Naturalization Service has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until October 6, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Replacement Naturalization/Citizenship Document.