Registration, BD0504200, issued to Rory Patrick Doyle, 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 April 12, 2004.

Dated: February 20, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–5483 Filed 3–10–04; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

John A. Frenz, M.D.; Revocation of Registration

On June 4, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John A. Frenz, M.D. (Dr. Frenz) of Brandon, Mississippi, notifying him of an opportunity to show cause as to why DEA should not revoke his Certificate of Registration No. AF6071752 under 21 U.S.C. 824(a) and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged Dr. Frenz voluntarily surrendered his medical license to the Mississippi State Board of Medical Licensure and is not currently authorized to practice medicine or handle controlled substances in Mississippi, his state of registration and practice. The order also notified Dr. Frenz that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Frenz at his address of record at 346 Crossgates Boulevard, Brandon, Mississippi 39047. According to the return receipt, on or around June 17, 2003, the Order was accepted on Dr. Frenz's behalf. The return receipt also indicated that Dr. Frenz's new address was 600 Bay Park Drive, Brandon, Mississippi 39047. DEA has not received a request for a hearing or any other reply from Dr. Frenz or anyone purporting to represent him in this matter.

Therefore, the Acting 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. Frenz is deemed to have waived his hearing right. See Samuel S. Jackson, D.D.S., 67 FR 65145 (2002); David W. Linder, 67 FR 12579 (2002). After considering material from the investigative file, 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. Frenz possesses DEA Certificate of Registration AF60771752, which expired on September 30, 2002. The Acting Deputy Administrator further finds that the Mississippi State Board of Medical Licensure (the Board) finds a Summons against Dr. Frenz alleging inter alia, that he was guilty of dishonorable or unethical conduct likely to deceive, defraud or harm the public and that he had voluntarily surrendered his hospital staff privileges while an investigation or disciplinary proceeding was being conducted against him. These counts arose from complaints filed by two of Dr. Frenz's patients alleging he engaged in sexual misconduct with them in his office and at the Rankin Medical Center of Brandon, Mississippi.

On February 13, 2002, Dr. Frenz waived his rights to a due process hearing and voluntarily and unconditionally executed a Voluntary Surrender of his Mississippi State Medical License No. 10906, to the Board. This Voluntary Surrender was accepted and approved by the Board on February 21, 2002.

The investigative file contains no evidence that the Voluntary Surrender of Dr. Frenz's medical license was stayed or that his license has been reinstated. Therefore, the Acting Deputy Administrator finds that Dr. Frenz is not currently authorized to practice medicine in the State of Mississippi. As a result, it is reasonable to infer 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 Muttaiya Darmarajeh, M.D., 66 FR 52936 (2002); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear Dr. Frenz surrendered his medical license and is not licensed to handle controlled substances in Mississippi, where he is registered with DEA. Therefore, he is not entitled to a DEA registration in that state.

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 AF60771752, issued to John A. Frenz, M.D., 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 12, 2004.

Dated: February 20, 2004.

Michele M. Leonhard,

Acting Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 7, 2003, and published in the **Federal Register** on October 29, 2003, (68 FR 61699), Gateway Specialty Chemical, Co., 4170 Industrial Drive, St. Peters, Missouri 63376, made application by renewal to the Drug Enforcement Administration for registration as a bulk manufacturer of Phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

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

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Gateway Specialty Chemical Co. to manufacture the listed controlled substance is consistent with the public interest at this time. DEA has investigated Gateway Specialty Chemical Co. to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 C.F.R. 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed is granted.