accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.13. Pursuant to sections 201.16(d) and 210.13(a) of the Commission's Rules, 19 CFR §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: July 23, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–19109 Filed 7–26–96; 8:45 am]

BILLING CODE 7020–02–U

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–83]

David M. Headley, M.D., Grant of Restricted Registration

On September 7, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David M. Headley, M.D., (Respondent) of Port Gibson, Mississippi, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), as being inconsistent with the public interest.

On September 30, 1994, the Respondent filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Jackson, Mississippi, on August 22 and 23, 1995, before Administrative Law Judge Paul A. Tenney. 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 November 28, 1995, Judge Tenney issued his Findings of Fact, Conclusions of Law, and Recommended Ruling, recommending that the Respondent's application for registration be granted provided he meet the following conditions:

(1) Submit to random, unannounced urine screenings once every two weeks for a period of not more than one year. Respondent shall transmit to the Special Agent in Charge of the New Orleans Field Division of the DEA or his designee the results of such urine screenings on a monthly basis.

(2) Respondent shall continue to attend weekly Alcoholics Anonymous meetings, or other support group meetings of his choice, for a period of not less than one year.

Neither party filed exceptions to his decision, and on January 16, 1996, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The 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 Deputy Administrator adopts, in full, the Findings of Fact, Conclusions of Law, and Recommended Ruling 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 December 20, 1984, the Respondent voluntarily surrendered his DEA Certificate of Registration, AH9733862, upon admitting himself into the Ridgeview Institute in Smyrna, Georgia, for substance abuse treatment. From October 2, 1984, through February 4, 1987, the Respondent participated in a multi-phase rehabilitation treatment program. On February 20, 1986, the Mississippi State Board of Medical Licensure (Medical Board) granted the Respondent permission to re-register with the DEA in Schedules IV and V, and his DEA application was granted. The Respondent was issued a DEA Certificate of Registration, BH0570502, which was later modified to include Schedules III and IIIN.

However, in 1988, the Respondent suffered a relapse, and he admitted that he was abusing controlled and non-controlled substances during this time. In August of 1988, Medical Board investigators reviewed prescription files at pharmacies in the Respondent's local area. The investigation revealed that the Respondent had prescribed and ordered numerous controlled and non-controlled substances for himself, and had prescribed controlled substances for his wife. As a result of this investigation, the Medical Board and the Respondent entered into a Consent Agreement on September 28, 1988, which prohibited the Respondent from administering, dispensing, or prescribing addictive drugs to himself or members of his family, and which required him to submit to random, unannounced drug screening tests.

The Respondent submitted to the drug screens, and a test taken on April 28, 1989, indicated the presence of amphetamine and methamphetamine, both Schedule II drugs, and phendimetrazine, a Schedule III drug. Again on July 21, 1989, the Respondent's drug screen tested positive for amphetamine, and for phenobarbital, a Schedule IV drug. Consequently, the Medical Board served the Respondent with an Order of Prohibition dated August 11, 1989, prohibiting him from practicing medicine until such time as he was evaluated for chemical dependency.

On August 16, 1989, the Respondent entered another treatment center, where he remained until September 15, 1989. On October 24, 1989, the Respondent entered into a second consent agreement with the Medical Board, requiring him, among other things, (1) to surrender his DEA registration, (2) to refrain from administering, dispensing, or prescribing to himself or to family members, any drug having addiction-forming qualities, (3) to submit to random, unannounced, and witnessed urine and/or blood screens for a period of at least five years (4) to complete all required phases of a drug abuse treatment program, and (5) to affiliate with the Mississippi State Medical Association Impaired Professionals Program. As of the time of the hearing before Judge Tenney, the Respondent had abided by, and was still subject to, the terms of this agreement, including the drug screening provision. On October 24, 1989, the Respondent surrendered his DEA registration as required by the second consent agreement.

The Respondent continued his drug abuse rehabilitation program through February 27, 1990, completing Phase III of his treatment. He then entered into a two-year aftercare monitoring phase of recovery. On February 27, 1992, the Respondent voluntarily extended his aftercare contract for another year, after successfully having completed the required two-year period. The Respondent also successfully completed

his third year contract on February 26, 1993.

Previously, on November 22, 1991, the Medical Board approved the Respondent's request for permission to register with the DEA to obtain a Certificate of Registration for Schedules IV and V only. Accordingly, on November 24, 1991, the Respondent applied for such a restricted registration, and on July 12, 1993, the Director, Office of Diversion Control of the DEA, issued an Order to show Cause to the Respondent, seeking to deny his application. The Respondent waived his right to a hearing, and on October 25, 1993, the then-Administrator of the DEA issued a Final Order denying the Respondent's application. The Administrator concluded that the investigative file and the Respondent's written statement with accompanying letters written on his behalf, had presented insufficient evidence that the Respondent had been sufficiently rehabilitated from his substance abuse problems to be entrusted with a DEA Certificate of Registration. Subsequently, on December 15, 1993, the Respondent reapplied for a DEA registration in Schedules IV and V, and it is that application that is the subject of this order.

The evidence of record establishes that the Respondent has not abused controlled substances or alcohol since August 16, 1989. The Respondent recently earned his sixth-year sobriety chip from the local Alcoholics Anonymous (AA) chapter, and he continues to attend these group support meetings at least once a week.

An investigator for the Medical Board testified before Judge Tenney, relaying the investigative results of the Respondent's relevant conduct from 1984 through 1992. He also stated that since August of 1989, there had been no further complaints made to the Medical Board regarding the Respondent's drug abuse problem or his capabilities as a physician.

Further, an expert in drug and alcohol abuse counseling (Counselor) testified that, based upon his personal knowledge of the Respondent and his professional relationship with him, the Respondent was fully rehabilitated. The Counselor also stated that he was a recovering drug addict and alcoholic, that he had attended AA meetings with the Respondent since 1990, and that he was the Respondent's sponsor. He testified that he had not observed anything that would indicate that the Respondent had, since his rehabilitation in 1989, used any alcohol or controlled substances. The Counselor also opined that the Respondent was not a risk for diverting controlled substances. Mr. David Whitehead, an expert in drug and alcohol abuse counseling with similar personal knowledge of the Respondent, also opined that the Respondent was fully rehabilitated and would not create a risk for diverting controlled substances.

Further, Dr. Doyle Smith, a physician and an expert in addiction medicine, also testified. Based upon his personal knowledge of the Respondent's behavior, as well as his review of the evidence in this matter, Dr. Smith concluded that the Respondent was rehabilitated ''as successful[ly] as he can be in six years of ongoing sobriety.''

Dr. Roy Barnes, the Chief of Staff of the Claiborne County Hospital, testified before Judge Tenney, stating that he was the primary care doctor for the Respondent and his wife, and thus he had frequent contact with both of them. Dr. Barnes testified that he had not observed any symptoms or behavior from the Respondent or Mrs. Headley that would lead him to believe that either of them had any substance abuse problems since returning from their treatment programs. Dr. Barnes also opined that the Respondent and his wife were fully rehabilitated.

The administrator of the Claiborne County Hospital, Ms. Wanda Fleming, testified that the Respondent had regained all of his staff privileges at the hospital, to the extent possible without a DEA registration. She stated that the Respondent had been appointed Vice Chief-of-Staff for the hospital, and that there had been no deficiencies in his performance since his privileges had been reinstated. Ms. Fleming also testified that it was very difficult to find doctors to cover the emergency room at night, on weekends, and on holidays, but that she could always count on the Respondent to help when asked.

The record also contains evidence that it is very difficult to get doctors to practice in Claiborne County, Mississippi, because the area is very rural and the people are poor. The county leads the State in infant mortality and teenage pregnancies, and the Respondent is one of only two doctors who deliver babies in the county.

The Respondent's wife testified before Judge Tenney, describing her substance abuse problems, her successful completion of a drug abuse treatment program, her continuing attendance at a local support group, and to the fact that she had been sober since October 17, 1989. In addition, she testified that she and her husband have a strong marriage, that they provide support for one another, and that their support system included a large family and many close friends. She also stated that since their respective dates of sobriety, neither she nor her husband had diverted, misused, or abused controlled substances.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for registration as a practitioner, 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).

Absent any evidence of a conviction record, the Deputy Administrator finds that factors one, two, four, and five are relevant in determining whether the Respondent's registration would be inconsistent with the public interest. As to factor one, '' recommendation of the appropriate State licensing board,'' it is uncontroverted that the Respondent's past conduct resulted in the Medical Board's taking affirmative action to remove him from the practice of medicine and to prohibit him from administering, dispensing, or prescribing controlled substances. The two consent agreements and the prohibition order evidence such Medical Board intervention. However, also uncontroverted is the Medical Board's reinstatement of his medical license, and its order of November 22, 1991, allowing the Respondent to apply for a DEA Certificate of Registration in Schedules IV and V. Thus, the Deputy Administrator finds that the Medical Board, upon receiving evidence of the Respondent's drug abuse condition, quickly responded to the situation. However, the Medical Board also acknowledges the Respondent's current condition of recovery and has reinstated

his medical licensure. Further, the Medical Board also supports the Respondent's application for registration in Schedules IV and V.

As to factor two, the Respondent's ''experience in dispensing * * * controlled substances,'' and factor four, the Respondent's ''[c]compliance with applicable State, Federal, or local laws relating to controlled substances,'' the Deputy Administrator agrees with Judge Tenney's conclusion, that the Respondent had prescribed controlled substances to himself and his wife for their personal use and for no legitimate medical reason. To be effective, a prescription for a controlled substance ''must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a); see also Harlan J. Borcherding, D.O., 60 FR 28,796, 28,798 (1995). The Respondent's conduct failed to meet this standard.

As to factor five, ''[s]uch other conduct which may threaten the public health or safety,'' the Deputy Administrator agrees with Judge Tenney's conclusion, that ''[t]here is no persuasive evidence that the Respondent's DEA registration would threaten the public health and safety.''

The Deputy Administrator also finds significant that the Respondent and his wife have been in a state of recovery from their substance abuse condition since 1989. Further, the evidence demonstrates that, since the Respondent voluntarily surrendered his DEA Certificate of Registration in 1989, he has not prescribed nor dispensed controlled substances. The Respondent submitted voluminous evidence of negative drug screening results over a five-and-one-half year time frame. Finally, numerous witnesses with firsthand knowledge of the Respondent's and his wife's conduct since 1989 have testified to their continued sobriety and opined that a relapse after over five years of sobriety was highly unlikely. Such evidence supports the Respondent's position that granting him a DEA Certificate of Registration in Schedules IV and V would be in the public's interest.

However, Judge Tenney also noted the Respondent's history of successful treatment in 1984 and a relapse in 1988. He concluded that,

> due to the seriousness of Respondent's substance abuse problem in the past, it is prudent to continue to monitor Respondent's recovery. Dr. Moffitt, one of the founders of the Impaired Professional Program for doctors in Mississippi, testified that Respondent should be granted a DEA registration at this time, but that Respondent should also continue drug testing. I agree with that suggestion.

Consistent with his conclusion, Judge Tenney recommended that the Respondent be granted a DEA registration subject to two conditions. The Deputy Administrator agrees with Judge Tenney's conclusion, with some minor modification to the order. The Respondent will be required, beginning on the effective date of this order:

(1) To submit on a monthly basis to the Special Agent in Charge of the New Orleans Field Division of the DEA or his designee, a copy of his urine screening results from urine screenings, (a) taken once every two weeks for a period of six months, and (b) subsequently taken once every month for a follow-on period of six months.

(2) To continue to attend weekly Alcoholics Anonymous meetings, or other support group meetings of his choice, for a period of one year.

Therefore, the Deputy Administrator finds that the public interest is best served by issuing a DEA Certificate of Registration in Schedules IV and V to the Respondent, subject to the above requirements.

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 application of David M. Headley, M.D., for a DEA Certificate of Registration in Schedules IV and V be, and it hereby is, approved, subject to the above requirements.

Further, the Respondent submitted extensive evidence demonstrating the need for the DEA Certificate of Registration in his current practice, as well as evidence of the community's need for a physician of his specialty with prescribing capabilities. Also, the Respondent presented evidence that he would be willing to comply with the ordered requirements as a condition to granting this registration. Thus, the Deputy Administrator has determined that the public interest will be better served in making this final order effective upon publication, rather than thirty days from the date of publication. Therefore, this order is effective upon the date of publication in the Federal Register.

Dated: July 22, 1996.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 96–19197 Filed 7–26–96; 8:45 am]

BILLING CODE 4410–09–M

Immigration and Naturalization Service

[INS No. 1779–96; AG Order No. 2044–96]

RIN 1115–AE26

Extension of Designation of Bosnia-Hercegovina Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends, until August 10, 1997, the Attorney General's designation of Bosnia-Hercegovina under the Temporary Protected Status (''TPS'') program provided for in section 244A of the Immigration and Nationality Act, as amended (''the Act''). Accordingly, eligible aliens who are nationals of Bosnia-Hercegovina (or who have no nationality and who last habitually resided in Bosnia-Hercegovina) may re-register for Temporary Protected Status and extension of employment authorization. This re-registration is limited to persons who already have registered for the initial period of TPS which ended on August 10, 1993.

EFFECTIVE DATES: This extension of designation is effective on August 11, 1996, and will remain in effect until August 10, 1997. The primary re-registration procedures become effective on July 29, 1996, and will remain in effect until August 27, 1996.

FOR FURTHER INFORMATION CONTACT: Ronald Chirlin, Adjudications Officer, Immigration and Naturalization Service, Room 3214, 425 I Street NW., Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: Under section 244A of the Act, as amended by section 302(a) of Public Law 101–649 and section 304(b) of Public Law 102–232 (8 U.S.C. 1254a), the Attorney General is authorized to grant Temporary Protected Status in the United States to eligible aliens who are nationals of a foreign state designated by the Attorney General, or who have no nationality and who last habitually resided in that state. The Attorney General may designate a state upon finding that the state is experiencing ongoing armed conflict, environmental disaster, or certain other extraordinary and temporary conditions that prevent nationals or residents of the country from returning in safety.

Effective on August 10, 1992, the Attorney General designated Bosnia-Hercegovina for Temporary Protected Status for a period of 12 months, 57 FR 35604. The Attorney General extended