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).

Here it is clear that Respondent is not authorized to practice medicine or handle controlled substances in the Commonwealth of Pennsylvania. Since Respondent lacks this state authority, he is not entitled to a DEA registration in that state.

In light of the above, Judge Bittner properly granted the Government's Motion for Summary Disposition. Here, the parties did not dispute the fact that Respondent is unauthorized to handle controlled substances in Pennsylvania. 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 FR 32887 (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 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AA8218249, previously issued to Teodoro A. Ando, 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 March 30, 1998.

Dated: February 20, 1998.

Peter F. Gruden,

Acting Deputy Administrator.

[FR Doc. 98–4975 Filed 2–26–98; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Eric Jones, M.D.; Revocation of Registration; Denial of Request To Modify Registration

On September 18, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Eric E. Jones, M.D., (Respondent) of Atlanta, Georgia, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BJ2942440, deny any pending applications for modification of his registration to change his address to Georgia, and deny any pending applications for renewal of such registration under 21 U.S.C. 823(f) and 824(a)(1) and (a)(3). The Order to Show Cause alleged that Respondent materially falsified his application for renewal of his DEA Certificate of Registration and that he was not currently authorized to handle controlled substances in the State of Georgia.

By letter dated December 15, 1997, Respondent waived his right to a hearing, but submitted a written statement regarding this matter pursuant to 21 CFR 1301.43(c). In addition, the Director of Morehouse School of Medicine's Family Medicine Residency Program submitted a letter in support of Respondent. The Acting Deputy Administrator hereby enters his final order in this matter based upon the investigative file and Respondent's written statement pursuant to 21 CFR 1301.43(e) and 1301.46.

The Acting Deputy Administrator finds that by final order dated June 28, 1994, the Maryland Board of Physician Quality Assurance (Maryland Board) suspended Respondent's license to practice medicine for three years, but stayed the suspension and placed Respondent on probation for a period of three years subject to various terms and conditions. One reason for the Board's action was Respondent's failure to disclose on his renewal application for his Maryland medical license that his clinical privileges and employment at a local hospital had been terminated for disciplinary reasons.

On March 6, 1995, Respondent executed an application for a new DEA Certificate of Registration. The application was preprinted with an address for Respondent in Los Angeles, California. Respondent had crossed out that address and handwritten in an address in Washington, D.C. The Acting Deputy Administrator considers this a request by Respondent to modify his address on his registration to Washington, D.C.

One question on the application, hereinafter referred to as ''the liability question,'' asks, ''Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?'' Respondent answered ''no'' to this question.

On February 4, 1997, Respondent submitted a request to further modify his registration by changing his address to a location in Atlanta, Georgia. Respondent noted on this request that, ''I do not hold a Georgia License.'' A letter from the Georgia Composite State Board of Medical Examiners dated August 11, 1997, states that ''Eric E. Jones is not now nor has he ever been licensed as a physician in the State of Georgia.''

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:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(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;

(3) Has had his State license or registration suspended, revoked, or denied by component State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of Title 42.

The Acting Deputy Administrator finds that Respondent is not currently authorized to practice medicine in the State of Georgia, where he wants to modify his DEA registration. Respondent, in his written statement, concedes that he does not possess a Georgia medical license. The Acting Deputy Administrator further finds that since Respondent is not currently authorized to practice medicine in the State of Georgia, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

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 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 16,193 (1997); *Demetris A. Green, M.D.,* 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.,* 58 FR 51,104 (1993).

Here it is clear that Respondent is not currently authorized to handle controlled substances in the State of Georgia. Therefore, Respondent is not entitled to a DEA registration in that state and his request for modification of his registration to an address in Georgia must be denied.

Regarding the revocation of Respondent's DEA Certificate of Registration under 21 U.S.C. 824(a)(1), the Acting Deputy Administrator finds that DEA has previously held that in finding that there has been a material falsification of an application, it must be determined that the applicant knew or should have known that the response given to the liability question was false. See *Bobby Watts, M.D.,* 58 FR 4699 (1993); *Herbert J. Robinson, M.D.,* 59 FR 6304 (1994).

Respondent states in his written statement that, ''the material falsification of my application for DEA Certificate renewal was a grave and profound error of ignorance of the facts concerning the nature of the determination made by the Maryland Board. It was a serious error of omission because I understood the three year probation as a 'second change' in this matter, and the stayed suspension as not equivalent, in fact, to an outright suspension of my license. It was because of this misunderstanding on my behalf that I did not include this information on the DEA Certificate renewal application in March of 1995. I had no intent to beguile or manipulate; profoundly I did not know or tru[sic] understand.''

The Acting Deputy Administrator finds that Respondent's explanation does not relieve him of his responsibility to properly answer the liability question. The fact that Respondent viewed his being placed on probation by the Maryland Board as ''a second change'' is irrelevant. Respondent does not deny that he knew that his license was placed on probation. Likewise, his contention that he did not understand is not credible. Respondent knew or should have known that his Maryland medical license was placed on probation for three years. Therefore, the Acting Deputy Administrator concludes that by answering ''no'' to the liability question, Respondent materially falsified his March 6, 1995 renewal application.

The Director of Morehouse School of Medicine's Family Medicine Residency Program submitted a letter on behalf of Respondent, stating that Respondent ''has always been very honest about his status with licensing organizations.'' The Acting Deputy Administrator concludes that the Director's support does not negate the fact that Respondent is not currently authorized to handle controlled substances in Georgia or that he materially falsified his application for renewal of his DEA Certificate of Registration.

The Acting Deputy Administrator finds that since Respondent did not offer any other explanation for the falsification of his application or any mitigating evidence, revocation of Respondent's DEA Certificate of Registration is warranted. Even if Respondent did not intentionally falsify his application, his negative answer to the liability question demonstrates a lack of attention to detail and carelessness, both of which are of great concern to the Acting Deputy Administrator. This is made even more troublesome by the fact that part of the basis for the Maryland Board's action was that Respondent failed to disclose certain information on his application for renewal of his medical license. If anything, Respondent should have been even more careful in answering questions on his applications.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in his by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BJ2942440, issued to Eric E. Jones, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator furthers orders that Dr. Jones' request to modify his registration, and any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective March 30, 1998.

Dated: February 20, 1998.

Peter F. Gruden,

Acting Deputy Administrator.

[FR Doc. 98–4973 Filed 2–26–98; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Rafael A. Segrera, D.O. Revocation of Registration

On June 5, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Rafael A. Segrera, D.O., of Odebolt, Iowa, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BS1828788, under 21 U.S.C. 824(a)(3), and deny any pending applications for registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Iowa. The order also notified Dr. Segrera that should no request for a hearing be filed within 30 days of receipt, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received by Dr. Segrera on June 12, 1997. No request for a hearing or any other reply was received by the DEA from Dr. Segrera 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. Segrera is deemed to have waived his hearing right. After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on October 20, 1994, the Board of Medical Examiners of the State of Iowa (Board) issued an Order of Summary Suspension of Dr. Segrera's license to practice osteopathic medicine and surgery. Following a hearing, the Board indefinitely suspended Dr. Segrera's license effective February 23, 1996. Thereafter, by letter dated March 18, 1996, the Iowa Board of Pharmacy Examiners notified Dr. Segrera of the suspension of his Iowa controlled substance registration.

The Acting Deputy Administrator finds that Dr. Segrera is not currently authorized to handle controlled substances in the State of Iowa, where he is registered with DEA. 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 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 16,193 (1997); *Demetris A. Green, M.D.,* 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.,* 58 FR 51,104 (1993).

Here it is clear that Dr. Segrera is not currently authorized to handle controlled substances in the State of