

100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041) .....	II
Benzoylecgonine (9180) .....	II

The firm plans to manufacture bulk controlled substances for distribution to 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 Stepan Company to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Stepan Company on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, 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 CFR 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 classes of controlled substances listed above is granted.

Dated: July 22, 1999.

**John H. King,**

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

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 99-2]

#### Dietrich A. Stoermer, M.D.; Denial of Application

On June 5, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Dietrich A. Stoermer, M.D. (Respondent) of Las Vegas, Nevada. The Order to Show Cause notified Dr. Stoermer of an opportunity to show cause as to why DEA should

not deny his application for registration as a practitioner pursuant to 21 U.S.C. 823(f) and 824(a)(3), based in part on the fact that he is not currently authorized to handle controlled substances in Nevada.

On October 26, 1998, Respondent filed a request for a hearing and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On November 2, 1998, Judge Bittner issued an Order requiring Respondent to file a written statement indicating why his more than four month delay in filing a request for a hearing should not be considered a waiver of his right to a hearing. On November 12, 1998, Respondent filed a written statement asserting that he received the Order to Show Cause on August 6, 1998, and since it was more than thirty days after the Order to Show Cause had been issued he believed that he was precluded from responding. Respondent asserted that he received a second Order to Show Cause on September 30, 1998, and timely filed his request for a hearing on October 26, 1998. The Government did not file an objection to Respondent's explanation. Thereafter, on November 25, 1998, Judge Bittner issued a Memorandum and Order for Prehearing Statements finding that Respondent did not waive his right to a hearing.

In lieu of filing a prehearing statement, the Government filed a Motion for Summary Disposition and Request for Stay of Deadline to File Prehearing Statement on December 15, 1998, alleging that Respondent is not authorized to handle controlled substances in Nevada, where he has applied to be registered with DEA. On December 31, 1998, Respondent submitted his response to the Government's motion, in which he did not deny that he was not currently authorized to handle controlled substances in Nevada.

On February 1, 1999, Judge Bittner issued her Opinion and Recommended Decision, finding that Respondent lacks authorization to handle controlled substances in the State of Nevada; granting the Government's Motion for Summary Disposition; and recommending that Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to her opinion, and on April 6, 1999, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

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

The Deputy Administrator finds that attached to the Government's Motion for Summary Disposition was a letter dated March 5, 1998, from a licensing specialist with the Nevada State Board of Pharmacy (Pharmacy Board), which indicated that Respondent's state registration was not renewed in October 1994, and that while Respondent reapplied for registration in June of 1996, he did not complete the registration process. In his response to the Government's motion, Respondent did not deny that he was not currently authorized to handle controlled substances in Nevada. However, he asserted that when he applied for a state registration in June 1996, he was told not to pursue state registration "until the Federal problem is sorted out." Subsequently, by letter dated January 25, 1999, Respondent forwarded a copy of his application dated January 29, 1999, for a controlled substance registration filed with the Pharmacy Board.

The Deputy Administrator finds that Respondent does not dispute that he is not currently authorized to handle controlled substances in Nevada, where he has applied for registration with DEA. However, he asserts that the Pharmacy Board will not consider his application for state registration until he receives a DEA Certificate of Registration. Judge Bittner noted that "[t]his agency has neither the authority nor the obligation to discover why Respondent is not registered with the Pharmacy Board, but only to ascertain if Respondent is authorized to handle controlled substances in the State of Nevada." Therefore, the Deputy Administrator concludes that Respondent is not currently authorized to handle controlled substances in Nevada.

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. See 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).

Here it is clear that Respondent is not licensed to handle controlled substances in the State of Nevada. Since Respondent lacks this 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. The parties did not dispute the fact that Respondent is currently unauthorized to handle controlled substances in the State of Nevada. 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 Philip E. Kirk, M.D., 48 FR 32887 (1993), *aff'd sub nom* Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984); see also 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 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 the application for registration submitted by Dietrich A. Stoemer, M.D., be, and it hereby is, denied. This order is effective August 6, 1999.

Dated: July 27, 1999.

**Donnie R. Marshall,**  
Deputy Administrator.

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Richard M. Wodka, M.D., Revocation of Registration**

On February 26, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Richard M. Wodka, M.D., of Arizona, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BW3512173 pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Arizona. The order also notified Dr. Wodka 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 registered mail to Dr. Wodka's DEA registered address in Tucson, Arizona,

but was returned to DEA with a notation that Dr. Wodka had moved without leaving a forwarding address. A copy of the Order to Show Cause was also sent by regular mail to Dr. Wodka at his last known address in Marana, Arizona. This copy has not been returned and therefore is considered to have been delivered.

No request for a hearing or any other reply was received by the DEA from Dr. Wodka or anyone purporting to represent him in this matter. It is evident that Dr. Wodka is no longer practicing medicine at the address listed on his DEA Certificate of Registration. Dr. Wodka is therefore deemed to have waived his opportunity for a hearing. The Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Wodka currently possesses DEA Certificate of Registration BW3512173, issued to him in Arizona. On July 17, 1996, the Arizona Board of Medical Examiners (Board) placed Dr. Wodka's license to practice medicine in inactive status and totally revoked his prescribing privileges.

The Deputy Administrator concludes that Dr. Wodka is not currently licensed to practice medicine in the State of Arizona, and is not 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. See 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 Dr. Wodka is not currently authorized to handle controlled substances in the State of Arizona. As a result, he is not entitled to a DEA registration in that state.

Accordingly, the 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 BW3512173, previously issued to Richard M. Wodka, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective September 7, 1999.

Dated: July 27, 1999.

**Donnie R. Marshall,**

Deputy Administrator.

[FR Doc. 99-20240 Filed 8-5-99; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

[INS No. 2009-99; AG Order No. 2239-99]

#### **Extension of the Registration Period for Hondurans and Nicaraguans Under the Temporary Protected Status Program**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice.

**SUMMARY:** On January 5, 1999, the Attorney General designated Honduras and Nicaragua under the Temporary Protected Status (TPS) program for a period of 18 months. Under the terms of the designation, applicants could apply for TPS during the registration period lasting from January 5, 1999, through July 5, 1999. This notice extends the registration period until August 20, 1999. Applications must be received with the appropriate fee for a fee waiver request by the Immigration and Naturalization Service (Service) service center with jurisdiction over the applicant's place of residence by close of business on August 20, 1999. The extension of the registration period does not extend the period of the designation. In order to be eligible for TPS under the Honduras or Nicaragua designations, applicants must demonstrate that they have been continuously present in the United States since January 5, 1999, and have continuously resided in the United States since December 30, 1998. The Service is extending the registration period to allow eligible applicants who have not yet filed an application an additional 45 days to register for TPS. There will be no further extension of the registration deadline.

**DATES:** This notice is effective July 7, 1999.

**FOR FURTHER INFORMATION CONTACT:** Michael Valverde, Immigration and Naturalization Service, Adjudications Division, 425 I Street, NW, Room 3040, Washington, DC 20536, telephone (202) 514-4754.

#### **SUPPLEMENTARY INFORMATION:**

#### **When did the Attorney General designate Honduras and Nicaragua under the TPS Program?**

On January 5, 1999, the Attorney General designated Honduras and