accessing its internet server (*http://www.usitc.gov*).

**SUPPLEMENTARY INFORMATION:**

## Background

On August 27, 1999 (64 FR 46952), the Commission published a notice in the **Federal Register** scheduling a full five-year review concerning the antidumping duty order on internal combustion industrial forklift trucks from Japan. The schedule provided for a public hearing on January 25, 2000. Requests to appear at the hearing were filed with the Commission on behalf of NACCO Materials Handling Group and on behalf of Clark Material Handling Co. However, the Federal Government was closed on January 25, 2000, because of snow and so the Commission hearing was not held as scheduled. Subsequently, each of the parties requesting to appear at the hearing withdrew their request. Since there are no current requests by interested parties to appear at a public hearing, the Commission determined to cancel, instead of reschedule, the public hearing on internal combustion industrial forklift trucks from Japan and provide those parties scheduled to appear an opportunity to present written testimony. The Commission unanimously determined that no earlier announcement of this cancellation was possible.

The Commission's new schedule for the review is as follows: the deadline for filing posthearing briefs is February 15, 2000; the Commission will make its final release of information on March 9, 2000; and final party comments are due on March 13, 2000.

For further information concerning the review, see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to sections 201.35 and 207.62 of the Commission's rules.

Issued: January 31, 2000.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 00–2524 Filed 2–3–00; 8:45 am]

**BILLING CODE 7020–02–U**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### James Garvey Cavanagh, M.D.; Revocation of Registration

On August 5, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James Garvey Cavanagh, M.D., of Hawthorne, Nevada, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AC9084485 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 Nevada. The order also notified Dr. Cavanagh that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

DEA received a signed receipt indicating that the Order to Show Cause was received on August 21, 1999. No request for a hearing or any other reply was received by the DEA from Dr. Cavanagh or anyone purporting to represent him in this matter. Therefore the 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. Cavanagh is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.43(d) and (e) and 1301.46. This final order replaces and supersedes the final order issued on December 22, 1999, and published at 64 FR 73,586 (December 30, 1999).

The Deputy Administrator finds that Dr. Cavanagh currently possesses DEA Certificate of Registration AC9084485 issued to him in Nevada. The Deputy Administrator further finds that on March 18, 1999, the Board of Medical Examiners of the State of Nevada issued its Findings of Fact, Conclusions of Law, and Order revoking Dr. Cavanagh's license to practice medicine in the State of Nevada.

The Deputy Administrator concludes that Dr. Cavanagh is not currently licensed to practice medicine in Nevada, and therefore, 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. 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 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. Cavanagh is not currently authorized to handle controlled substances in the State of Nevada. As a result, Dr. Cavanagh 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 USC 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AC9084485, previously issued to James Garvey Cavanagh, 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 March 6, 2000, and is considered the final agency action for appellate purposes pursuant to 21 U.S.C. 877.

Dated: January 18, 2000.

**Donnie R. Marshall,**

*Deputy Administrator.*

[FR Doc. 00–2526 Filed 2–3–00; 8:45 am]

**BILLING CODE 4410–09–M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 99–9]**

### Michael G. Dolin, M.D., Denial of Request for Modification of Registration

On December 17, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Michael Glen Dolin, M.D. (Respondent) of Rockville Center, New York, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AD4476378 pursuant to 21 U.S.C. 824(a)(4), and deny any pending applications for modification or renewal of such registration pursuant to 21 U.S.C. 823(f), for reason that his registration would be inconsistent with the public interest.

On January 4, 1999, Respondent, through counsel, filed a request for a

hearing. Following prehearing proceedings, a hearing was held in New York City, New York on May 26, 1999, and continued on July 13, 1999, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and introduced documentary evidence.

On July 9, 1999, prior to the second hearing session, the Government filed a Motion to Amend Prehearing Statement and to Reopen Record, which was granted at the hearing on July 13, 1999. The Government introduced evidence that the New York Department of Health, State Board for Professional Medical Conduct (Medical Board), had revoked Respondent's license to practice medicine in New York, and that the New York State Supreme Court, Appellate Division, Third Judicial Department (Appellate Division), stayed the revocation, but precluded Respondent from prescribing controlled substances. Based upon this evidence, the Government made an oral Motion for Summary Disposition at the July 13, 1999 hearing session.

After being given an opportunity to reply to the Government's motion, on August 23, 1999, Respondent filed a motion requesting that Judge Randall deny the Government's motion and adjourn these proceedings until the Appellate Division renders its decision on the Respondent's appeal of the Medical Board's revocation of his medical license.

On September 1, 1999, the Government filed a Renewed Motion for Summary Disposition, and sought to reopen the record to introduce evidence of the Appellate Division's decision lifting the temporary stay of the revocation of Respondent's New York medical license. The Government asserted that since Respondent is no longer authorized to handle controlled substances in New York, DEA cannot register him in that state. In a letter dated September 8, 1999, Respondent replied to the Government's Renewed Motion for Summary Disposition.

On September 28, 1999, Judge Randall issued her Opinion and Recommended Decision finding that Respondent lacks authorization to handle controlled substances in the State of New York; denying Respondent's Motion to Adjourn; granting the Government's Motion for Summary Disposition; and recommending that Respondent's request for modification of his DEA registration be denied. Neither party filed exceptions to her Opinion and Recommended Decision, and on November 4, 1999, Judge Randall 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 Respondent was issued DEA Certificate of Registration AD4476378 at an address in North Carolina with an expiration date of June 30, 1998. On June 14, 1998, Respondent submitted an application to modify his registration with DEA. On the application, Respondent crossed out the registered address in North Carolina and hand wrote in an address in Rockville, New York. Pursuant to 21 CFR 1301.51, this request for modification is treated like a new application for registration.

The Deputy Administrator further finds that in a decision dated May 17, 1999, the Hearing Committee of the Medical Board revoked Respondent's license to practice medicine in the State of New York. On June 10, 1999, the Appellate Division temporarily stayed the revocation, pending Respondent's appeal of the Medical Board's decision. Subsequently, in a decision dated August 6, 1999, the Appellate Division lifted the temporary stay of the Medical Board's revocation of Respondent's license to practice medicine in New York.

In arguing against summary disposition and for an adjournment of these proceedings pending a ruling on his appeal, Respondent asserted that if the Government's motion is granted and Respondent ultimately wins his appeal of the Medical Board's revocation of his medical license, he would be without a DEA registration to handle controlled substances. Respondent further argued that the public interest would be protected by delaying a decision in this matter pending the outcome of the appeal in the Appellate Division since he is currently without a medical license and he has not written a controlled substance prescription since his DEA registration expired in 1998.

The Deputy Administrator concludes that Respondent is not currently authorized to practice medicine in the State of New York and it is therefore reasonable to infer that he is also not 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. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Michael J. Pine, D.D.S., 64 FR 33318 (1999); Eric Jones, M.D., 63 FR 10042 (1998); Romeo J. Perez, M.D., 62 FR 16193 (1997).

Here, it is clear that Respondent is not authorized to practice medicine or handle controlled substances in New York, and therefore, he is not eligible to possess a DEA registration in that state. As Judge Randall noted, ''[a] pending judicial challenge to the Medical Board's decision does not alter Respondent's status in New York. The outcome of a potential judicial challenge to the Medical Board's action is speculative, and the decision of the Medical Board is final until otherwise overturned.'' Under these circumstances, Judge Randall found that it would be inappropriate to stay or adjourn these proceedings.

In light of the above, Judge Randall 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 New York. 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 Jesus R. Juarez, M.D., 62 FR 14945 (1997); Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984).

The Deputy Administrator agrees with Judge Randall's conclusion that because Respondent lacks state authorization in New York, the state where he is seeking to be registered, it is unnecessary to address the other allegations raised in the Order to Show Cause.

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 request of Michael G. Dolin, M.D. to modify his DEA Certificate of Registration AD4476378, dated June 14, 1998, be, and it hereby is, denied. The Deputy Administrator notes that DEA Certificate of Registration AD4476378 is no longer valid since it expired without being renewed or modified. This order is effective March 6, 2000.

Dated: January 18, 2000.

**Donnie R. Marshall,**

*Deputy Administrator.*

[FR Doc. 00–2537 Filed 2–3–00; 8:45 am]

**BILLING CODE 4410–09–M**