discretionary authority for officials to release registration information. Information must be released to members of the public as necessary to protect the public from registered offenders. This mandatory disclosure requirement applies both in relation to offenders required to register because of conviction for ''a criminal offense against a victim who is a minor'' and those required to register because of conviction for a ''sexually violent offense.''

States do, however, retain discretion to make judgments concerning the circumstances in which, and the extent to which, the disclosure of registration information to the public is necessary for public safety purposes and to specify standards and procedures for making these determinations. Several different approaches to this issue appear in existing state laws.

One type of approach, which is consistent with the requirements of the Jacob Wetterling Act as amended, involves particularized risk assessments of registered offenders, with differing degrees of information release based on the degree of risk. For example, some states classify registered offenders in this manner into risk levels, with (1) Registration information limited to law enforcement uses for offenders in the ''low risk'' level, (2) notice to organizations with a particular safety interest (such as schools and other child care entities) for ''medium risk'' offenders, and (3) notice to neighbors for ''high risk'' offenders.

States are also free under the Act to make judgments concerning the degree of danger posed by different types of offenders and to provide information disclosure for all offenders (or only offenders) with certain characteristics or in certain offense categories. For example, states may decide to focus particularly on child molesters, in light of the vulnerability of the potential victim class, and on recidivists, in light of the threat posed by offenders who persistently commit sexual offenses.

Another approach consistent with the Act is to make information accessible to members of the public on request. This may be done, for example, by making registration lists open for inspection by the public, by establishing call-in numbers which members of the public can contact to obtain information on the registration status of identified individuals, or by providing such information in response to written requests. As with proactive notification systems, states that have information-on-request systems may make judgments about which registered offenders or classes of registered offenders should be covered and what information will be disclosed concerning these offenders.

States are encouraged to involve victims and victim advocates in the development of their information release programs and in the process for particularized risk assessments of registrants if the state program involves such assessments.

Paragraph (2) of subsection (d) does not deprive states of the authority to exercise centralized control over the release of information, or if the state prefers, to have local agencies make determinations concerning public safety needs and information release.

A proviso at the end of paragraph (2) states that the identity of the victim of an offense that requires registration under the Act shall not be released. This proviso safeguards victim privacy by prohibiting disclosure of victim identity to the general public in the context of information release programs for registered offenders. It does not bar the dissemination of victim identity information for law enforcement or other governmental purposes (as opposed to disclosure to the public) and does not require that a state limit maintenance of or access to victim identity information in public records (such as police and court records) which exist independently of the registration system. Because the purpose of the proviso is to protect the privacy of victims, its restriction may be waived at the victim's option.

So long as the victim is not identified, the proviso in paragraph (2) does not bar including information concerning the characteristics of the victim and the nature and circumstances of the offense in information release programs for registered offenders. For example, states are not barred by the proviso from releasing such information as victim age and gender, a description of the offender's conduct, and the geographic area where the offense occurred.

Immunity for Good Faith Conduct—Subsection (e)

Subsection (e) states that law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under the Act.

Compliance—Subsection (f)

States have three years from the date of enactment (i.e., September 13, 1994) to come into compliance with the Act unless the Attorney General grants an additional two years where a state is making good faith efforts at implementation. States that fail to come into compliance within the specified time period will be subject to a mandatory 10% reduction of Byrne Formula Grant funding, and any funds that are not allocated to noncomplying states will be reallocated to states that are in compliance.

States are requested to submit descriptions of their existing or proposed registration systems for sex offenders to the Bureau of Justice Assistance as soon as possible. These submissions will be reviewed to determine the status of state compliance with the Act and to suggest any necessary changes to achieve compliance before the funding reduction goes into effect.

To maintain eligibility for full Byrne Formula Grant funding following September 13, 1997—the end of the three-year implementation period provided by the Act—states must submit to the Bureau of Justice Assistance by July 13, 1997, information that shows compliance with the Act or a written explanation of why compliance cannot be achieved within that period and a description of the good faith efforts that justify an extension of time (but not more than two years) for achieving compliance. States will also be required to submit information in subsequent program years concerning any changes in sex offender registration systems that may affect compliance with the Act.

Dated: March 28, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–8702 Filed 4–3–97; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 96–24]

Jose R. Castro, M.D.; Denial of Application

On February 20, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Jose R. Castro, M.D. (Respondent), of Alma, Georgia, notifying him of an opportunity to show cause as to why DEA should not deny his application for a DEA Certificate of Registration as a practitioner under 21 U.S.C. 823(f), for reason that his registration would be inconsistent with the public interest. The Order to Show Cause alleged, in substance, that: (1) From August 1989 through February 1990, Federal and state agents made 12 undercover visits to Respondent's office and that on each occasion, Respondent issued the agents prescriptions for

controlled substances for no legitimate medical use and outside the scope of professional practice; (2) On or about January 10, 1991, Respondent was indicted in the United States District Court for the Southern District of Georgia and charged with 12 counts of illegal distribution of controlled substances; (3) On May 8, 1991, Respondent was found guilty in the United States District Court for the Southern District of Georgia of four counts of illegal distribution of controlled substances; (4) Between 1989 and 1991, Respondent prescribed numerous different controlled substances to an individual for no legitimate medical reason. On May 17, 1991, the individual died of a drug overdose after consuming a combination of controlled substances prescribed by Respondent. A subsequent autopsy revealed that the individual died of multiple drug poisoning, consistent with the controlled substances that Respondent prescribed; (5) On September 3, 1991, the Composite State Board of Medical Examiners, State of Georgia, ordered the summary suspension of Respondent's privileges to handle controlled substances. Pursuant to the Order, Respondent was ordered to surrender DEA Certificate of Registration AC 9230311. Accordingly, on September 10, 1991, Respondent voluntarily surrendered his DEA registration.

On March 22, 1996, Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was scheduled to commence on January 29, 1997. On October 16, 1996, the Government filed a Motion for Summary Disposition, alleging that Respondent was not currently authorized to handle controlled substances in the State of Georgia. The Government's motion was supported by a copy of a Consent Order entered into by Respondent and the Composite State Board of Medical Examiners for the State of Georgia (Board) on January 9, 1992, and a copy of a letter from the Board to DEA dated October 11, 1996, stating that Respondent was not authorized to possess or prescribe controlled substances. Although provided an opportunity to do so, Respondent did not file a response to the Government's motion.

On November 22, 1996, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision finding that Respondent lacked authorization to handle controlled substances in the State of Georgia; 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 January 8, 1997, Judge Bittner transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting 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 Acting Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Laws and Decision of the Administrative Law Judge.

The Acting Deputy Administrator finds that on January 9, 1992, Respondent and the Board entered into a Consent Order whereby Respondent's license to practice medicine was suspended for five years with all but the first six months suspended and was then placed on probation. As part of the Consent Order, Respondent relinquished, until further order of the Board, ''his right to prescribe, administer, dispense, order or possess * * * controlled substances.'' A letter from the Board dated October 11, 1996, indicated that Respondent was ''not authorized to possess or prescribe any controlled substance.'' There is no evidence in the record that the Board has since reinstated Respondent's controlled substance privileges. Therefore, the Acting Deputy Administrator finds that Respondent is not currently authorized to handle controlled substances in the State of Georgia.

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 business. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 FR 51,104 (1993); James H. Nickens, M.D., 57 Fed. Reg. 59,847 (1992); Roy E. Hardman, M.D., 57 FR 49,195 (1992). In the instant case, the record indicates that Respondent is not currently authorized to handle controlled substances in the State of Georgia. As Judge Bittner notes, ''[b]ecause Respondent lacks this state authority, he is not currently entitled to a DEA registration.'' Because Respondent is not entitled to a DEA registration, the Acting Deputy Administrator finds it unnecessary to address whether Respondent's registration would be inconsistent with the public interest as alleged in the Order to Show Cause.

Judge Bittner also properly granted the Government's Motion for Summary Disposition. Here, the parties did not dispute the fact that Respondent was unauthorized to handle controlled substances in Georgia. 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 32,887 (1983), aff'd 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 F2d 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 the application submitted by Jose R. Castro, M.D. for a DEA Certificate of Registration, be, and it hereby is, denied. This order is effective May 5, 1997.

Dated: March 24, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–8560 Filed 4–3–97; 8:45 am]

BILLING CODE 4410–09–M

Abbas Helim Demetrios, M.D.; Revocation of Registration

On June 24, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Abbas Helim Demetrios, M.D., notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BD1248029, and deny any pending requests for modification of such registration to change the registered address from California to Georgia, pursuant to 21 U.S.C. 823(f) and 824(a)(3), for reason that he is not currently authorized to handle controlled substances in the States of California and Georgia. The order also notified Dr. Demetrios that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on July 1, 1996. No request for a hearing