

alternatives considered, mitigating measures adopted to avoid or minimize environmental impacts, and the reasoning behind the decisions reached.

The Record of Decision is available either through the Superintendent, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763-0591, (telephone 402-336-3970); or the National Park Service, Midwest Field Area (PL), 1709 Jackson Street, Omaha, Nebraska 68102, (telephone 402-221-3082).

Dated: January 23, 1997.

David N. Given,

*Acting Field Director, Midwest Field Area.*

[FR Doc. 97-3021 Filed 2-6-97; 8:45 am]

BILLING CODE 4310-70-P

## Office of Surface Mining Reclamation and Enforcement

### Water Protection

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior is making available on the Internet a draft resource document that describes OSM's role in water protection. The document provides an overview of two permitting requirements from the Surface Mining Control and Reclamation Act of 1977 (SMCRA): the applicant's determination of probable hydrologic consequences (PHC), and the regulatory authority's cumulative hydrologic impact assessment (CHIA). The web page contains electronic links to sources of hydrologic data that may be useful in making PHC and CHIA determinations.

**DATES:** OSM is requesting comments on the document until May 15, 1997.

**ADDRESS:** Electronic or written comments: The resource document can be viewed at the following URL address: <http://www.osmre.gov>. The document contains prompts at several locations for reader response. Readers may also submit electronic comments to: [dgrowitz@osmre.gov](mailto:dgrowitz@osmre.gov) or mail written comments to the Administrative Record (MS 210), Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Douglas Growitz, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240; Telephone: (202) 208-2634; E-mail address:

[dgrowitz@osmre.gov](mailto:dgrowitz@osmre.gov). Additional information concerning OSM, this resource document, and related documents may be found on OSM's home page at <http://www.osmre.gov>.

**SUPPLEMENTARY INFORMATION:** OSM is making available on its Internet home page a resource document to aid in protecting water and the hydrologic balance under SMCRA's permitting process. The Internet offers an opportunity for electronic presentation of information and dialog to a wide audience.

The OSM resource document is titled "Managing Hydrologic Information, A Resource for Development of Probable Hydrologic Consequences (PHC) and Cumulative Hydrologic Impact Assessments (CHIA)." A PHC is prepared by the coal operator seeking a permit to mine. The CHIA is prepared by the regulatory authority as part of the analysis is to approve or deny a permit application.

The document does not establish a regulatory standard and would not be binding on OSM or State regulatory authorities. The purpose of the document is to: (1) outline the hydrologic and related geologic requirements of SMCRA, (2) describe approaches for responding to these requirements, and (3) identify resources that may be helpful to industry and regulatory authorities in the permitting process. Some of the available resources described in the document, such as selected hydrologic data bases maintained by the U.S. Geological Survey, are directly accessible electronically through the document.

OSM would like to receive feedback from a wide audience and welcomes constructive comments aimed at making the document a more understandable, useful, and complete resource.

Dated: February 4, 1997.

Arthur W. Abbs,

*Acting Assistant Director, Program Support.*

[FR Doc. 97-3104 Filed 2-6-97; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Charles Addo-Yobo, M.D. Revocation of Registration

On May 24, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles Addo-Yobo, M.D., of Farmingdale, New York, proposing the revocation of his DEA

Certificate of Registration AA2601981 pursuant to 21 U.S.C. 824(a)(3) and (a)(5), and denial of any pending applications for renewal of such 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 New York and he was mandatorily excluded for five years from participation in Medicare/Medicaid programs pursuant to 42 U.S.C. 1320a-7(a). The order also advised 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 to Dr. Addo-Yobo by registered mail to his DEA registered address. Three attempts were made by the U.S. Post Office to deliver the Order to Show Cause with no success and the order was eventually returned to DEA unclaimed. DEA investigators went to Dr. Addo-Yobo's registered address and were told that he no longer lived there and his whereabouts were unknown. A check with the U.S. Post Office and the State Board for Professional Medical Conduct for the State of New York revealed that Dr. Addo-Yobo left no forwarding address.

The Acting Deputy Administrator finds that DEA has made numerous attempts to locate Dr. Addo-Yobo and has determined that his whereabouts are unknown. It is quite evident that Dr. Addo-Yobo is no longer practicing medicine at the address listed on his DEA Certificate of Registration. The Acting Deputy Administrator concludes that considerable effort has been made to serve Dr. Addo-Yobo with the Order to Show Cause without success. Dr. Addo-Yobo is therefore deemed to have waived his opportunity for a hearing. The Acting Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 C.F.R. 1301.54 and 1301.57.

The Acting Deputy Administrator finds that by Order dated December 22, 1994, the State Board for Professional Medical Conduct for the State of New York (Board) revoked Dr. Addo-Yobo's license to practice medicine in the State of New York. The Board found that Dr. Addo-Yobo and others "participated in a scheme to operate medical clinics for the purpose of obtaining payments directly and indirectly from the Medicaid system by submitting bills, and causing others to submit bills, to the New York Department of Social Service for medical services, drugs, prescriptions, and laboratory tests which he knew to be, and were in fact, medically unnecessary." As a result, Dr.

Addo-Yobo was convicted in the United States District Court for the Southern District of New York on one count of mail fraud in violation of 18 U.S.C. 1341 and one count of conspiracy to commit Medicaid and mail fraud in violation of 18 U.S.C. 371.

By letter dated June 27, 1994, the United States Department of Health and Human Services notified Dr. Addo-Yobo that he was being excluded, pursuant to 42 U.S.C. 1320a-7(a), from participation in Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs for a period of five years.

The Acting Deputy Administrator concludes that in light of the revocation of Dr. Addo-Yobo's state medical license, he is not currently authorized to handle controlled substances in the State of New York. 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, 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 Fed. Reg. 51,104 (1993); *James H. Nickens, M.D.*, 57 Fed. Reg. 59,847 (1992); *Roy E. Hardman, M.D.*, 57 Fed. Reg. 49,195 (1992). Here, it is clear that Dr. Addo-Yobo is not currently authorized to handle controlled substances in the State of New York. Therefore, Dr. Addo-Yobo is not currently entitled to a DEA registration. Because Dr. Addo-Yobo is not entitled to a DEA registration due to his lack of state authorization to handle controlled substances, the Acting Deputy Administrator concludes that it is unnecessary to address whether Dr. Addo-Yobo's DEA registration should be revoked based upon his exclusion from participating in Medicare/Medicaid programs.

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 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AA2601981, previously issued to Charles Addo-Yobo, 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 10, 1997.

Dated: January 31, 1997.  
James S. Milford,  
*Acting Deputy Administrator.*  
[FR Doc. 97-3049 Filed 2-6-97; 8:45 am]  
BILLING CODE 4410-09-M

**[Docket No. 95-16]**

**Mark J. Berger, D.P.M.; Continuation of Registration With Restrictions**

On December 23, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mark J. Berger, D.P.M. (Respondent) of Riverwoods, Illinois, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BB2461604, and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), for reason that his continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 824(a)(4).

By letter dated January 17, 1995, the Respondent, acting *pro se*, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Chicago, Illinois on April 12, 1995, before Administrative Law Judge Mary Ellen Bittner. At the hearing, the Government called witnesses and introduced documentary evidence and Respondent testified in his own behalf. After the hearing, the Government submitted proposed findings of fact, conclusions of law and argument, and Respondent submitted a post hearing brief. On April 11, 1996, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's DEA registration not be revoked, but be restricted in that Respondent shall not prescribe, administer or otherwise dispense any controlled substances for any member of his family or himself, and shall handle controlled substances only in treating podiatric patients and not for any purpose outside the usual practice of podiatry. Neither party filed exceptions to Judge Bittner's Opinion and Recommended Ruling, and on May 14, 1996, the record of these proceedings was transmitted to the Deputy Administrator.

The Acting 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 Acting Deputy Administrator adopts, in its entirety, the Opinion and

Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge. 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 Acting Deputy Administrator finds that Respondent is a podiatrist initially licensed to practice in the State of Illinois in the early 1980's. However, as of at least March 1984, Respondent had never been licensed to handle controlled substances in the State of Illinois.

In March 1984, the Illinois Department of Registration and Education (now known as the Department of Professional Regulation and hereinafter referred to as DPR) received information from DEA that Respondent had recently ordered 500 Quaalude tablets (the brand name for methaqualone) after methaqualone had been rescheduled in Illinois from Schedule II to Schedule I. As a result of this information, a DPR investigator and a local police officer went to Respondent's office on March 8, 1984, intending to conduct an administrative search and take possession of the Quaalude tablets. Respondent acknowledged ordering the Quaalude, but stated that he kept the tablets at his home due to recent break-ins or attempted break-ins. Respondent was told that his possession of Quaalude was illegal and he agreed to relinquish the drugs after seeing his last patient of the day. Subsequently, Respondent admitted that he had self-administered 1,000 to 1,500 Quaalude tablets over a period of approximately a year and a half to relieve pain caused by an injury.

Respondent then consented to a search of his office, which revealed an empty bottle labeled 100 Quaalude, an open bottle of Empirin with codeine (a Schedule III controlled substance) with 79 tablets missing, and an open bottle of diazepam (a Schedule IV controlled substance) with 22 tablets missing. Respondent advised the officers that he had no records for the dispensation of these controlled substance.

After being taken into investigative custody, Respondent consented to the search of his home. This search revealed two empty 100-tablet bottles and one empty 500-tablet bottle of Quaalude, two full 100-tablet bottles of Quaalude, seven Empirin with codeine tablets, plant material suspected to be cannabis, and drug paraphernalia.

A review of DEA order forms revealed that during the period November 11, 1982 through January 23, 1984, Respondent ordered the following controlled substances: 2,500 dosage