

did not reply to the Government's motion.

On May 27, 1998, Judge Randall issued an Order denying the Government's motion. In doing so, Judge Randall agreed with the Government that DEA lacks authority to register a practitioner who is not authorized to handle controlled substances in the state in which he practices. However, Judge Randall found that the Government had not met its burden of proof for summary disposition since the Government failed to file a copy of Respondent's application or any other evidence indicating that Respondent had applied to be registered by DEA in the State of Washington. Thereafter, on June 9, 1998, the Government filed a Motion for Reconsideration of Summary Disposition Motion, arguing that it had met its burden of proof, but nonetheless attaching a copy of Respondent's application which reflected an address in Richland, Washington.

Respondent filed a response to the Government's motion on June 26, 1998. In his response, Respondent made three requests: (1) to withdraw the DEA application dated January 16, 1997; (2) that future applications be processed in an expedient and timely manner; and (3) that a future application will be handled favorably, as long as the Respondent holds the appropriate state license. On July 13, 1998, the Government contended that pursuant to 21 CFR 1301.16(a) and 28 CFR 0.100 and 0.104, Judge Randall lacked jurisdiction to grant Respondent's request to withdraw his pending application. In a footnote, the Government indicated that Respondent's request to withdraw his application had been forwarded to the DEA Deputy Assistant Administrator, Office of Diversion Control.

On July 23, 1998, Judge Randall issued her Opinion and Recommended Ruling, concluding that she lacked jurisdiction to grant Respondent's request to withdraw his application; finding that Respondent lacked authorization to handle controlled substances in the State of Washington; granting the Government's Motion for Summary Disposition; and recommending that Respondent's application for registration be denied. Neither party filed exceptions to her opinion, and on September 1, 1998, Judge Randall transmitted the record of these proceedings to the Acting Deputy Administrator.

In a letter dated January 5, 1999 to DEA's Chief Counsel, the Deputy Administrator sought clarification regarding the status of Respondents

application in light of Government counsel's representation that Respondent's request to withdraw his application had been forwarded to the DEA Deputy Assistant Administrator, Office of Diversion Control for a decision. The Deputy Administrator reasoned that if Respondent's request to withdraw his application had been granted then there is no application to deny and these proceedings are moot. By letter dated February 22, 1999, DEA's Chief Counsel indicated that Respondent's request to withdraw his application was denied and attached a copy of the August 12, 1998 letter from DEA's Deputy Assistant Administrator, Office of Diversion Control denying Respondent's request.

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 Ruling of the Administrative Law Judge.

The Deputy Administrator finds that effective on or about October 5, 1997, Respondent entered into an Agreed Order with the State of Washington, Department of Health, Medical Quality Assurance Commission. As part of the Agreed Order, Respondent agreed that he shall not order, prescribe or dispense controlled substances. Based upon the evidence in the record this Agreed Order is still in effect and Respondent does not dispute that he is without authority to handle controlled substances in the State of Washington.

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 *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 handle controlled substances in Washington. Therefore, he is not entitled to a DEA registration in that state.

The Deputy Administrator further finds that in light of the above, Judge Randall properly granted the Government's Motion for Summary Disposition. It is well settled that when no question of material fact is involved, or when the facts are agreed upon, there is no need for a plenary, administrative hearing. Congress did not intend for

administrative agencies to perform meaningless tasks. See *Gilbert Ross, M.D.*, 61 FR 8664 (1996); *Philip E. Kirk, M.D.*, 48 FR 32887 (1983), *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984). Here, there is no dispute that Respondent currently lacks state authority to handle controlled substances in Washington, where he has requested to be registered with DEA.

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 a DEA Certificate of Registration submitted by George Thomas, PA-C, be, and it hereby is, denied. This order is effective May 3, 1999.

Dated: March 15, 1999.

Donnie R. Marshall,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review: Application for Certificate of Citizenship in Behalf of an Adopted Child.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on January 14, 1999 at 64 FR 2517, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 3, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer,

Room 10235, Washington, DC 20530; 202-395-7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship in Behalf of an Adopted Child.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N-643, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection allows United States citizen parents to apply for a certificate of citizenship on behalf of their adopted alien children.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 11,159 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 11,159 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department

of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington, Center, 1001 G Street, NW, Washington, DC 20530.

March 26, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice Immigration and Naturalization Service.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review: Notice to Student or Exchange Visitor.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on January 11, 1999 at 64 FR 1643, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 3, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202-395-7316.

Written comments and suggestions from the public and affected agencies

concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement without change of a previously approved collection.

(2) *Title of the Form/Collection:* Notice to Student or Exchange Visitor.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I-515, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This information collection will be used to notify students or exchange visitors admitted to the United States as nonimmigrants that they have been admitted without required forms and that they have 30 days to present the required forms and themselves to the appropriate office for correct processing.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,000 responses at 5 minutes (.083 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 249 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department