

MINNESOTA**Winona County**

Winona City Hall, (Federal Relief Construction in Minnesota MPS), 207 Lafayette St., Winona, 99000806

NEW YORK**Delaware County**

Old School Baptist Church of Halcottsville, Old NY 30, Halcottsville, 99000809

Rockland County

Old Sloatsburg Cemetery, Richards Rd., Sloatsburg, 99000807

Ulster County

Guilford—Bower Farm House, Albany Post Rd., New Paltz vicinity, 99000810
Hasbrouck, Maj. Jacob, Jr. House, 193 Huguenot St., New Paltz, 99000808

NORTH CAROLINA**Duplin County**

Boney, W. Stokes, House, (Duplin County MPS), 651 E. Southerland St., Wallace, 99000812

Moore County

Black, J.C., House, 106 McNeill St., Carthage, 99000811

Rutherford County

Cool Springs High School, 382 W. Main St., Forest City, 99000813

PENNSYLVANIA**Philadelphia County**

Germantown Junction Station, 2900 N. Broad St., Philadelphia, 92000940

SOUTH CAROLINA**Bamberg County**

American Telephone and Telegraph Company Building, 124 N. Palmetto Ave., Denmark, 99000815

Hampton County

Pineland, The, The Pineland Lane, Off US 321, Garnett vicinity, 99000814

York County

Clover Downtown Historic District, Jct. of Main and Kings Mountain Sts., Clover, 99000816

WISCONSIN**Brown County**

Broadway—Walnut Historic District, 100 N and part of 100 S Block Broadway; 100 N Block Pearl St., 400 Block W. Walnut St., Green Bay, 99000817

Dunn County

Upper Wakanda Park Mound Group, Address Restricted, Menomonie vicinity, 99000818

Monroe County

Walczak—Wontor Quarry Pit Workshop, Address Restricted, Cataract vicinity, 99000819

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DEPARTMENT OF JUSTICE**Drug Enforcement Administration**

[Docket No. 98-7]

Michael J. Pine, D.D.S.; Denial of Application

On October 22, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Michael J. Pine, D.D.S. (Respondent) of Roseburg, Oregon, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f) and 824(a)(1) and (a)(4) for reason that his registration would be inconsistent with the public interest.

Respondent filed a request for a hearing, and the matter was docketed before Administrative Law Judge Gail A. Randall. Following prehearing procedures, a hearing was held on April 2, 1998, in Eugene, Oregon. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument.

On November 27, 1998, while the matter was still pending before Judge Randall, counsel for the Government filed a Motion to Reopen Record and for Summary Disposition, alleging that Respondent is currently without authority to handle controlled substances in the State of Oregon. The motion was supported by a copy of the Consent Order for Revocation of License entered into by Respondent with the Oregon Board of Dentistry dated June 26, 1998. The Government argued that DEA cannot issue Respondent a registration since Respondent is without state authorization to handle controlled substances. Although Respondent was given the opportunity to file a response to the Government's motion, no such response was filed.

Thereafter, on December 29, 1998, Judge Randall issued her Opinion and Recommended Decision, finding that based upon the evidence before her, Respondent lacks authorization to handle controlled substances in the State of Oregon and therefore he is not entitled to a DEA registration in that state; 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 February 5, 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 1416.67, 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. 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 Deputy Administrator finds that by a Consent Order for Revocation of License dated June 26, 1998, the Oregon Board of Dentistry ordered the immediate revocation of Respondent's license to practice dentistry. Therefore, the Deputy Administrator finds that Respondent is not currently authorized to practice dentistry in Oregon, the state where he has applied to be registered with DEA. The Deputy Administrator further finds that it is reasonable to infer that since Respondent is not authorized to practice dentistry in Oregon, he is also not authorized to handle controlled substances in that state.

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 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 Respondent is not licensed to handle controlled substances in Oregon. Since Respondent lacks this state authority, he is not entitled to a DEA registration in that state.

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 Oregon. See *Dong Ha Chung, M.D.*, 63 FR 11,694 (1998); *Jesus R. Juarez, M.D.*, 62 FR 14,945 (1997).

Since DEA does not have the statutory authority to issue Respondent a DEA registration because he is not currently authorized to handle controlled substances in Oregon, the Deputy Administrator concludes that it is unnecessary to determine whether Respondent's application for registration should be denied based upon the grounds alleged 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 application for registration submitted by Michael J. Pine, D.D.S. on June 5, 1995, be, and it hereby is, denied. This order is effective June 22, 1999.

Dated: June 14, 1999.

Donnie R. Marshall,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 98-15]

Saihb S. Halil, M.D.; Revocation of Registration; Denial of Request for Modification

On November 6, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Saihb S. Halil, M.D. (Respondent) of California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AH1993749, and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f) and 824(a)(3), for reason that his California medical license was revoked effective May 3, 1995, and he is therefore not currently authorized to handle controlled substances in that state. Following subsequent communication between Respondent and DEA, Respondent submitted a letter to DEA dated January 29, 1998, requesting that his DEA Certificate of Registration be modified to reflect a Puerto Rico address. On February 20, 1998, DEA issued an Amended Order to Show Cause to Respondent proposing to revoke his DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(1) and (a)(3), and to deny his request to modify his registration and to deny any pending applications for renewal of such registration under 21 U.S.C. 823(f) for reason that his continued registration would be inconsistent with the public interest.

By letter dated March 2, 1998, Respondent timely filed a request for a hearing, and following prehearing procedures, a hearing was held in San Francisco, California on July 1, 1998, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called a witness to testify and introduced documentary evidence. After the hearing, both parties filed proposed findings of fact, conclusions of law and argument. On November 19, 1998, Judge

Randall issued her Opinion and Recommended Ruling, recommending that Respondent's DEA registration be revoked and that his request for modification and any pending applications for renewal be denied. Neither party filed exceptions to the Opinion and Recommended Ruling of the Administrative Law Judge, and on January 6, 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 findings of fact and conclusions of law of the Administrative Law Judge, and adopts Judge Randall's recommended ruling with one exception. 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 Deputy Administrator finds that Respondent was issued DEA Certificate of Registration AH1993749 on March 18, 1983.

Effective July 10, 1995, the Medical Board of California (Board) revoked Respondent's license to practice medicine based upon his patient care in 1987 and 1988. The Board concluded that Respondent's license should be revoked (1) "For gross negligence in his treatment of [3 named patients];" (2) "for repeated acts of negligence in his treatment of [3 named patients];" (3) "for acts and omissions which constitute incompetence in his treatment of [2 named patients];" (4) "for dishonest and corrupt acts in his dealings with [1 named patient];" and (5) "for sexual misconduct with [1 named patient]." Further the Board adopted the state administrative Law Judge's finding that Respondent had been "untruthful in his depositions in 1990, and he [had been] untruthful at trial in 1994."

In October 1995, Respondent submitted a renewal application for his DEA Certificate of Registration listing a California address. On this application, Respondent listed the license number for his revoked California medical license in response to the question regarding the status of his state licensure. Further, Respondent answered "No" in response to the question on the application (hereinafter referred to as the liability question") which asks in relevant part: "Has the applicant ever * * * had a State professional license or controlled

substance registration revoked, suspended denied, restricted or placed on probation, or is any such action pending against the applicant?" At the hearing in this matter, Respondent testified that he had not personally completed this renewal application nor had he signed it.

On November 6, 1996, DEA issued the first Order to Show Cause to Respondent. By letter dated November 22, 1996, Respondent informed DEA that he currently was practicing medicine in Puerto Rico, and requested information concerning what other action he should take in response to the Order to Show Cause. DEA did not reply to Respondent's letter until December 30, 1997. DEA informed Respondent that he needed to request a modification of his DEA registration to reflect his Puerto Rico address. By letter dated January 29, 1998, Respondent requested modification of his DEA Certificate of Registration to reflect a Puerto Rico address.

At the hearing in this matter, Respondent admitted that he lacked in-depth knowledge of the applicable DEA regulations. He further testified that although he has pursued extensive medical training while in Puerto Rico, the training did not include classes concerning the handling of controlled substances.

The Government contends that Respondent's DEA Certificate of Registration must be revoked since he is no longer authorized to practice medicine or handle controlled substances in California, and state authorization is a necessary prerequisite to DEA registration. Further the Government contends that Respondent's request for modification of his DEA registration to reflect a Puerto Rico address should be denied based upon Respondent's material falsification of his October 1995 renewal application.

Respondent asserts that his request for modification of his DEA Certificate of Registration should be granted because he did not materially falsify his renewal application; the Government failed to prove that modification of his registration would be inconsistent with the public interest; and the Government is estopped from taking adverse action based upon its failure to process his application in a timely manner. Respondent further asserts that if his request for modification is granted to reflect a Puerto Rico address, then the Government no longer has a basis for revoking his DEA registration.

As to Respondent's estoppel argument, the Deputy Administrator agrees with Judge Randall that "[t]he chronology of agency action in this case