(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. *See Henry J. Schwarz, Jr., M.D.,* 54 FR 16422 (1989).

As to factor one, it is undisputed that Respondent's state veterinary license was suspended for 24 months, with the suspension stayed and his license placed on probation subject to various conditions. It is also undisputed that Respondent entered into a Stipulation with the state whereby he agreed to enter into a contract with the WHPS. However, his state license is now unrestricted and he is authorized to handle controlled substances in the State of Washington. But as Judge Bittner noted, ''inasmuch as State authorization is a necessary but not sufficient condition for a DEA registration, * * * this factor is not determinative.''

Regarding factor two, it is undisputed that Respondent used his DEA Certificate of Registration and official order forms to obtain Schedule II controlled substances which he then abused himself for about a year in 1988 or 1989. However, this behavior was a result of Respondent's chemical dependency for which he has received treatment. He has not abused controlled substances since 1990, and he has a good support network in place to help prevent any relapse. There is no other evidence that Respondent has improperly dispensed controlled substances.

As to factor three, there is no evidence that Respondent has ever been convicted under State or Federal laws relating to the manufacture, distribution, or dispensing of controlled substances.

Regarding factor four, there is evidence in the record that Respondent has failed to comply with applicable laws relating to controlled substances. By furnishing false information on his applications for DEA registration, Respondent violated 21 U.S.C. 843(a)(4)(A). By using DEA order forms to obtain controlled substances for his own use, Respondent violated 21 U.S.C. 828(e), and by dispensing controlled substances for other than legitimate medical purposes, Respondent violated 21 U.S.C. 841(a)(1). Further, Respondent violated 21 CFR 1301.75(b) by failing to maintain adequate physical security of controlled substances. It also appears from evidence in the record that Respondent violated various provisions of Washington state law.

As to factor five, other than Respondent's material falsification of his applications for registration, there is no evidence that Respondent has engaged in any other conduct that may threaten the public health and safety.

The Deputy Administrator agrees with Judge Bittner's conclusion that the Government has made a *prima facie* case that Respondent's continued registration would be inconsistent with the public interest. Respondent used his privileges as a DEA registrant to obtain controlled substances to support his chemical dependency, and he materially falsified his 1992 and 1995 renewal applications.

However, he has undergone treatment for his chemical dependency and has not abused controlled substances since 1990. Further, evidence in the record suggests that there is little likelihood of Respondent relapsing. The Deputy Administrator finds it noteworthy that Respondent first sought treatment for his chemical dependency on his own and not at the direction of another.

Judge Bittner also found it significant that ''there is no evidence that [Respondent] improperly handled controlled substances in any way since 1992, when he regained a DEA registration.'' However, the Deputy Administrator can find no evidence in the record that Respondent ever completely lost his DEA privileges. But it appears from the evidence in the record that Respondent has had a DEA registration since 1981. Therefore, the Deputy Administrator finds it significant that there is no evidence that Respondent has improperly handled controlled substances in any way since 1990.

Regarding the material falsification of Respondent's renewal applications, the Deputy Administrator agrees with Judge Bittner who noted that ''Respondent acknowledged that he falsified his applications, he apparently regretted that conduct, and I believe that he will not repeat it.''

Judge Bittner concluded ''that the evidence that Respondent has remained drug free for more than eight years prior to the hearing and is remorseful about his prior behavior weighs in favor of continuing his registration.'' As a result, Judge Bittner recommended that Respondent's DEA registration be continued. The Deputy Administrator agrees.

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 DEA Certificate of Registration AN1015331, previously issued to Theodore Neujahr, D.V.M., be, and it hereby is, continued and renewed in Schedules II, IIN, IIIN, IV and V. This final order is the final agency action for appellant purposes pursuant to 21 U.S.C. 877.

Dated: January 18, 2000.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 00–2534 Filed 2–3–00; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 99–1]

Michael Alan Patterson, M.D.; Grant of Restricted Registration

On September 23, 1998, the Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration (DEA), issued an Order to Show Cause to Michael Alan Patterson, M.D. (Respondent) of Memphis, Tennessee, notifying him of an opportunity to show causes as to why DEA should not deny his application for registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that his registration would be inconsistent with the public interest.

By letter dated October 22, 1998, Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause. Following prehearing procedures, a hearing was held in Nashville, Tennessee on March 10, 1999, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument. On August 11, 1999, Judge Randall issued her Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision (Opinion), recommending that Respondent's application for registration be granted subject to various conditions. Neither party filed exceptions to Judge Randall's Opinion, and on September 15, 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. This final order

replaces and supersedes the final order issued on December 22, 1999, and published at 64 FR 73,587 (December 30, 1999). The Deputy Administrator adopts, with specifically noted exceptions, the Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administration Law Judge. His adoption is in no manner diminished by any recitation of facts, issues or conclusions herein, or of any failure to mention a matter of factor or law.

The Deputy Administrator finds that Respondent admits to a history of drug and alcohol abuse, beginning with marijuana and beer on the weekends as a teenager. When Respondent entered college in 1980, he used cocaine sporadically after being introduced to the drug by one of his brothers.

Respondent received his medical degree in 1983, and from July 1983 through June 1986, Respondent was a resident in family practice in Florida. During his residency Respondent used a DEA certificate of Registration issued to him in Florida that expired on March 31, 1987. As a resident, his drug use remained sporadic but became more frequent.

In 1986, Respondent moved to Mississippi to fulfill an obligation to the National Health Service Corps. Respondent obtained medical licenses in both Mississippi and Tennessee. Ultimately, Respondent was issued DEA Certificate of Registration in both states.

In order to earn additional income, Respondent also worked for an emergency room service and for a freestanding urgent care center from 1986 through 1989. During this time he worked approximately 80 to 100 hours per week. According to Respondent, in 1986 his drug use ''progress[ed] to heavy,'' and the use of cocaine helped him stay awake so he could continue working.

Respondent testified that financial, marital, and work-related stress contributed to his drug use. He further testified that he began staying out late at night, if he returned home at all, and he frequented topless clubs. He failed to show up for work, and if he did show up, he was too ''crashed out'' to be productive. Eventually, Respondent's former wife notified his employer that Respondent had a cocaine problem.

As a result, the then-medical director the Tennessee Medical Foundation, Physicians Health Program (PHP), set up an intervention with Respondent, and Respondent entered treatment on March 16, 19990. According to Respondent he was very resistant to treatment at that time and fought it ''tooth and nail.'' Respondent completed the four-month treatment program in July or August 1990; however, he did not enter into an ongoing contract with the treatment center at that time.

After his treatment, Respondent returned to work part-time at the freestanding urgent care center, and later in 1990, he began a second job working full-time at a 24-hour minor medical emergency center. Additionally, in November or December 1991, Respondent began working at a hospital center. Respondent's employers were aware of his drug abuse problems and treatment.

In the spring or summer of 1991, Respondent began drinking again, and allowed his DEA registrations to expire. Although he had been sent notices to renew his registrations, Respondent testified that he ''avoid[ed] the mail'' during this time because he owed debts to several bill collectors. By January 1992, Respondent began using cocaine and crack cocaine again. As a result of his relapse, Respondent was fired from the 24-hour minor medical emergency center in March 1992.

Respondent was not aware that he had let his DEA registrations lapse until the hospital where he was working requested a copy of his current DEA registration. Respondent attempted to renew his registration in Tennessee, but he inadvertently sent the wrong form to DEA with the fee. When the incorrect form and money were returned to Respondent, he spent the money on cocaine and failed to renew his registration. Since he still needed to have a current registration to submit to the hospital, Respondent's then-girlfriend altered his expired DEA Certificate of Registration to reflect a 1995 expiration date instead of the actual 1991 expiration date. This forgery resulted in the hospital terminating Respondent's employment on September 15, 1992. At the hearing Respondent testified that he was abusing drugs and alcohol at the time of the alteration of his Certificate of Registration, and that ''there's no real justification to give you, other than I was sick and irresponsible.''

Respondent's substance abuse worsened, and during this time he was arrested and charged with the misdemeanors of drunk driving, reckless driving, public intoxication and possession of drug paraphernalia. Respondent pled guilty to two of the charges. In addition, from the summer of 1991 to November 1992, Respondent prescribed controlled substances without a valid registration and exchanged prescriptions for discounts on the cost of cocaine.

An investigation of Respondent began in 1992 based upon information from a confidential informant that she received controlled substance prescriptions from Respondent for no legitimate medical reason. On February 16, 1993, Respondent voluntarily met with law enforcement personnel. At this time, Respondent was currently undergoing inpatient treatment at a halfway house for his addiction. Respondent cooperated and provided full disclosure during this meeting, as well as subsequent meetings.

The investigation of Respondent, as well as his own admissions, revealed that Respondent had written controlled substance prescriptions to a number of individuals for no legitimate medical reason. He exchanged these prescriptions for services to include topless or private dances. He traded cocaine for sex and private dances, and he used cocaine and marijuana with these dancers.

Respondent acknowledged his prior behavior, his activity regarding his relationship with these individuals, and his unlawful prescribing of controlled substances. Respondent has accepted responsibility for his actions.

Subsequently, Respondent agreed to cooperate with the local police department. He provided a list of people that he had written controlled substance prescriptions to for no legitimate medical purpose. He also provided the names of individuals from whom he had purchased drugs from in the past and indicated from whom he thought he could buy drugs from in the future. Respondent agreed to work with the local police department to make telephone calls and contacts in an effort to set up undercover buys for drugs. Respondent was not very successful in gaining evidence against others since it was known that Respondent was in trouble. Respondent's cooperation with the local police department continued until August 1993.

Respondent entered treatment for a second time in November 1992, this time voluntarily. Respondent testified that he realized that his first attempt at treatment was ''a half-hearted effort'' and that at that time he was in denial of his addiction. By the time of his second attempt at treatment he had essentially lost everything. He testified, ''if I didn't get into treatment at that time, I really didn't think I would be here much longer.'' Respondent was in inpatient treatment for three weeks and then continued to undergo inpatient treatment at a halfway house for impaired professionals until June 1993.

While in treatment, Respondent's Tennessee medical license expired on

December 31, 1992. Respondent did not submit a renewal application for this license until March 23, 1993 and did not pay the license fee until May 11, 1993. Respondent continued to practice medicine even though his license had not been renewed. Respondent explained that when he returned to work in 1993, he thought his medical license was in a ''grace period.''

After completing his treatment in June 1993, Respondent returned to work at the 24-hour minor medical emergency center and for the emergency room service, both of which were aware of Respondent's prior drug treatments. On his application for employment with the emergency room service submitted on September 29, 1993, Respondent indicated that his privileges or professional services at any hospital had never been revoked, even though his privileges at the hospital center had been revoked in September 1992. At the hearing, Respondent admitted that this mistake was an oversight and that ''[he] had no reason to intentionally try and mislead or lie on that application.''

Respondent has maintained a contract with the PHP since March 3, 1993. After treatment, the PHP coordinates and monitors physicians' recovery process for a minimum of two years. As part of this contract with the PHP physicians agree to attend weekly peer group meetings and monthly meetings with PHP personnel, to undergo random drug testing, to attend Alcoholics Anonymous or Narcotics Anonymous meetings, and to participate in individualized therapy.

After fulfilling the terms of his initial two-year contract with the PHP, Respondent has continued to renew his contract. Respondent has complied with the terms of his contract.

As a result of Respondent's past behavior, the Tennessee Board of Medical Examiners (Board) sought to take action against Respondent's Tennessee medical license. Respondent failed to appear for a scheduled hearing before the Board on June 21, 1994. According to Respondent he never received notice from the Board that the hearing was going to take place. As a result, on June 22, 1994, the board entered a Default Order revoking Respondent's Tennessee medical license and assessing a $4,300 civil penalty. The Board found among other things that Respondent had lied on his Tennessee medical license renewal form and on his employment application dated September 29, 1993, that he engaged in unprofessional, dishonorable or unethical conduct, that he was habitually intoxicated which affected his ability to practice medicine, and that he dispensed controlled substances not in the course of professional practice. Respondent stopped practicing medicine when he received written notification in July 1994 of the Board's action.

Based upon his conduct in 1991 and 1992, Respondent was indicted on July 19, 1995, in the United States District Court for the Western District of Tennessee, and charged with 387 felony counts related to his handling of controlled substances. On November 18, 1996, Respondent pled guilty to 17 counts of the unlawful distribution of controlled substances in violation of 21 U.S.C. 841(a)(1). On March 27, 1997, Respondent was sentenced to three years probation, 2,000 hours of community service, and assessed a fine of $850. As conditions of his probation, Respondent is required to submit a random drug screens and to meet monthly with his probation officer. As of the date of the hearing Respondent had completed 1,500 to 1,600 hours of his community service obligation and had complied with all of the conditions of his probation.

On July 1, 1995, Respondent began a three-year psychiatry residency program at the University of Tennessee. He was selected for the position of Chief Resident in psychiatry by his fellow residents and faculty. During his residency, Respondent used the institutional DEA numbers of the institutions where he worked as a resident. No questions were ever raised by any official or representative at the University of Tennessee regarding Respondent's handling of controlled substances.

After his indictment and while in his residency program, Respondent assisted DEA in undercover activities for close to a year. Respondent's assistance produced four controlled substance buys, two of which resulted in convictions.

Effective October 6, 1997, the Board reinstated Respondent's medical license, finding that ''[t]he [Respondent] has been monitored by the Tennessee Medical Foundation's Physician Health Program and is currently in good standing with the program. He presented evidence of five (5) years of sobriety.'' The Board placed several restrictions on Respondent's medical license including that he maintain an affiliation with the PHP for five years to include at least five unannounced drug screens per year; that he only apply for a DEA registration in Schedules III, IV and V; and that he only practice in a supervised setting under a licensed physician acceptable to the Board until his criminal probation is lifted, but for not less than two years.

Respondent has been in compliance with the Board's restrictions. On average, Respondent is tested for drugs eight to ten times per year. According to Respondent, he plans to maintain a lifetime relationship with the PHP, not just the five years imposed by the Board.

The medical director of the PHP testified at the hearing that he has been in frequent contact with Respondent for over three and a half years. He believes that Respondent's prognosis for continued recovery from his drug addiction is excellent. The medical director testified that he does not have any reservations concerning Respondent's ability to handle Schedules III, IV and V controlled substances and that he ''fully support[s]'' the granting of Respondent's application. However, both Respondent and the medical director testified that Respondent may benefit from a course on the proper handling of controlled substances.

Respondent testified that he has been sober since November 6, 1992. He further testified that he would pay greater attention to detail about his registration status, and the proper maintenance and renewal of his DEA and state registration ''won't be a problem in the future at any time.'' He feels that he is ''much more responsible'' now. Respondent is ashamed of his previous conduct. He testified however that ''today I know that I'm not the same person that I was six, seven, eight years ago * * * who was sick and addicted.'' Respondent testified that he understands the consequences of a relapse.

Since 1998, Respondent has been employed at a treatment facility where, for the most part, he practices addiction medicine. Presently, if Respondent's treatment of a patient requires the use of controlled substances, one of Respondent's supervisors writes the prescription. The Board has approved Respondent's employment at the treatment facility and any change in employment would require additional Board approval.

On October 28, 1997, Respondent executed the application for registration that is the subject of these proceedings. Respondent applied to be registered in Schedules III, IV and V and provided his home address as his ''Proposed Business Address.'' Respondent testified that he does not intend to handle controlled substances at his residence and that the address on his application should be modified to reflect the address at the treatment facility where he is currently employed.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration, if he determines that the registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989).

As to factor one, the Board revoked Respondent's Tennessee medical license in June of 1994. However, three years later the Board reinstated Respondent's license subject to various restrictions. In reinstating Respondent's license, the Board recognized that Respondent had been drug-free for five years and was in good standing with the PHP. Therefore, it is undisputed that Respondent is currently authorized to handle controlled substances in Tennessee.

While state licensure is a prerequisite for a DEA registration, it is not dispositive of whether Respondent's registration would be in the public interest. However, it is noteworthy that the Board stated that ''[a]ny DEA certificate that the [Respondent] shall apply for shall be limited to Schedule III, IV and V.'' The Deputy Administrator agrees with Judge Randall that, ''[a]lthough this restriction is not an endorsement by the Board for issuing a DEA registration to the Respondent, at a minimum, this statement expresses the Board's confidence in the Respondent's ability to handle the responsibilities of a DEA registrant, particularly regarding the Respondent's ability to handle Schedules III, IV and V controlled substances.''

Respondent's experience in dispensing controlled substances and his compliance with laws related to controlled substances may be considered under factors two and four. The Deputy Administrator finds that Respondent's handling of controlled substances was abysmal during his active drug abuse. Respondent violated 21 U.S.C. 843(a)(2) by prescribing controlled substances without a valid DEA registration. He caused his expired DEA Certificate of Registration to be altered. In addition, Respondent violated 21 U.S.C. 841(a)(1) by prescribing controlled substances to individuals for no legitimate medical purpose. He wrote these prescriptions in exchange for discounts on his cocaine and crack purchases and in exchange for topless dances from women.

The Deputy Administrator finds this conduct to be reprehensible, and certainly could justify denying Respondent's application for registration. However, all of this conduct occurred when Respondent was heavily involved in substance abuse. Respondent has been drug-free since November 1992. He underwent intensive treatment and is still actively participating in aftercare treatment.

Also of concern is that Respondent continued to practice medicine in 1993 after he failed to timely renew his state medical license. However, this occurred when Respondent was undergoing substance abuse treatment and he thought his license was subject to a grace period.

Other than his practice of medicine without a current state license, there is no evidence that Respondent improperly handled controlled substances after he entered treatment in November 1992. In fact, Respondent handled controlled substances without question from July 1, 1995 to June 30, 1998 when using institutional numbers issued to him by the University of Tennessee during his residency.

Regarding factor three, it is undisputed that when Respondent was abusing drugs and alcohol, he was arrested for drunk driving, reckless driving, public intoxication and possession of drug paraphernalia. He pled guilty to two of these charges. In addition, on November 18, 1996, Respondent pled guilty to 17 counts of unlawful distribution of controlled substances. Respondent was sentenced to three years probation and 2,000 hours of community service. Evidence in the record indicates that Respondent has complied with the terms of his probation. While such convictions clearly could justify denying Respondent's application for registration, the Deputy Administrator finds it significant that these convictions resulted from Respondent's behavior when he was addicted to drugs and alcohol, and as has been previously discussed, Respondent has been drug-free for seven years and his prognosis for continued recovery is excellent.

As to factor five, other conduct which may threaten the public health and safety, it is undisputed that Respondent was previously addicted to alcohol and drugs, including marijuana, cocaine and crack cocaine. According to Respondent, his conduct was ''dangerous, illegal, [and] irresponsible'' when he was addicted. However, Respondent has under gone intensive treatment for his substance abuse and his treatment is ongoing.

It is true that Respondent previously had undergone treatment but had relapsed. However, Respondent admits that he was resistant to treatment at that time. The second time that Respondent entered treatment, he did so voluntarily and is committed to such treatment. The evidence suggests that his chances of relapse are slight. He understands the consequences of a relapse. He intends to maintain a lifetime relationship with the PHP and he currently works with others who are addicted to drugs and alcohol.

Judge Randall also found it significant under this factor that Respondent incorrectly listed his home address on his application for registration. However, she further found that it was not so egregious as to warrant a denial of Respondent's application for registration. The Deputy Administrator agrees that this incorrect listing of his business address does not warrant denial of Respondent's application.

Judge Randall concluded, and the Deputy Administrator agrees, that the Government has made a prima facie case for denial of Respondent's application. Respondent unlawfully prescribed controlled substances, altered his DEA Certificate of Registration, abused alcohol and drugs, and was convicted of offenses relating to controlled substances. However, it is not in the public interest to deny Respondent's application.

Respondent has acknowledged his past unlawful behavior and has accepted responsibility for his conduct. Respondent had a serious addiction to drugs and alcohol during his unlawful conduct. He has been sober since November 1992 and his chances of continued recovery are excellent. He intends to maintain a lifetime relationship with the PHP and he is currently still being monitored by the State of Tennessee. The evidence suggests that Respondent is clearly committed to his recovery and is seeking to help others with substance abuse problems by predominantly

practicing addiction psychiatry. Judge Randall also found it significant that Respondent cooperated with law enforcement by fully disclosing his unlawful conduct, by providing information against others, and by assisting in undercover buys.

Therefore, the Deputy Administrator agrees with Judge Randall that it would not be in the public interest to deny Respondent's application. However given the egregiousness of Respondent's past behavior, Judge Randall recommended that restrictions be imposed on Respondent's registration that would ''add a measure of protection to the public interest, while affording [Respondent] the opportunity to demonstrate his ability and willingness to handle controlled substances responsibly in his medical practice.'' Judge Randall recommended that Respondent's application for registration be granted subject to the following restrictions:

(1) The Respondent must resubmit a registration application reflecting his ''Proposed Business Address'' as required by regulation;

(2) The Respondent be granted a Certificate of Registration only for Schedules III, IV and V;

(3) By not later than two years after the date of the final order, the Respondent shall submit to the local DEA office evidence of successful completion, after August of 1999, of formal training in the proper handling or prescribing of controlled substances. Such training should be provided by an accredited institution at the Respondent's own expense;

(4) For three years after the effective date of the final order in this case, the Respondent shall submit, on a quarterly basis, a log of all of the controlled substances he has prescribed, administered or dispensed during the previous quarter, to the Special Agent in Charge of the nearest DEA office, or his or her designee. The log should include: the patient's name; the date that the controlled substance was prescribed, administered or dispensed; and the name, dosage and quantity of the controlled substance prescribed, administered or dispensed. If no controlled substances are prescribed, administered or dispensed during a given quarter, the Respondent shall indicate that fact in writing, in lieu of submission of the log. Review of such a log should provide adequate assurances for his future responsible conduct as a registrant.

The Deputy Administrator agrees with Judge Randall that Respondent's application for registration should be granted and that it is appropriate to impose restrictions on such registration. However, the Deputy Administrator finds it unnecessary to require Respondent to resubmit an application listing his proper business address. At the hearing in this matter, Respondent requested that his application be modified to reflect the address of his current place of employment. The Deputy Administrator finds that this request is sufficient to modify his application and a new application for registration is not required. However, if Respondent's place of employment has changed from that represented at the hearing, a new written request for modification of the address on his application must be submitted.

In addition, the Deputy Administrator disagrees with Judge Randall's recommendation that Respondent be given two years to present evidence of successful completion of formal training in the proper handling or prescribing of controlled substances. Given the nature of Respondent's past conduct, the Deputy Administrator finds that it is in the public interest for such training to be completed within one year of being issued his DEA registration.

Finally, the Deputy Administrator believes that it is prudent to require Respondent to continue his affiliation with the PHP for three years regardless of whether such affiliation is required by the Board.

Therefore, the Deputy Administrator concludes that Respondent should be granted a DEA Certificate of Registration in Schedules III, IV and V subject to the following restrictions:

(1) By not later than one year after the Certificate of Registration is issued, Respondent shall submit to the DEA office in Nashville, Tennessee evidence of successful completion, after August of 1999, of formal training in the proper handling or prescribing of controlled substances. Such training should be provided by an accredited institution at the Respondent's own expense.

(2) For three years after the issuance of the Certificate of Registration, Respondent shall submit, on a quarterly basis, a log of all of the controlled substances he has prescribed, administered, or dispensed during the previous quarter, to the Resident Agent in Charge of the DEA office in Nashville, Tennessee, or his or her designee. The log should include: The patient's name; the date that the controlled substance was prescribed, administered or dispensed; and the name, dosage and quantity of the controlled substance prescribed, administered, or dispensed. If no controlled substances are prescribed, administered or dispensed during a given quarter, the Respondent shall indicate that fact in writing, in lieu of submission of the log.

(3) Respondent shall continue his affiliation with the Tennessee Medical Foundation's Physicians' Health Program for at least three years from the issuance of the Certificate of Registration, regardless of whether such affiliation is required by the Tennessee Board of Medical Examiners.

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 Alan Patterson, M.D., be, and it hereby is, granted subject to the above described restrictions. This order is effective upon the issuance of the DEA Certificate of Registration, but no later than March 6, 2000, and is 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. 00–2541 Filed 2–3–00; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–41]

Paul W. Saxton, D.O.; Denial of Application for Fees and Expenses Under the Equal Access to Justice Act

On July 15, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Paul W. Saxton, D.O. (Respondent), proposing to revoke his DEA Certificate of Registration AS9420059, and to deny any pending application for renewal of such registration. The Order to Show Cause alleged that Respondent's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 823(f) and 824(a)(4).

Following a lengthy hearing and post-hearing filings, Administrative Law Judge Gail A. Randall issued her Recommended Rulings, Findings of Fact, Conclusions of Law and Decision on October 6, 1998, recommending that no adverse action be taken against Respondent's DEA registration. On November 5, 1998, Respondent's counsel filed an Application for Attorney's Fees and Expenses (Application), under the Equal Access to Justice Act, 28 U.S.C. 2412.