a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50,570 (2000); 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).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Kouns is not authorized to practice medicine or to handle controlled substances in Indiana, the jurisdiction where Dr. Kouns' DEA Certificate of Registration is issued, nor to practice medicine in Alabama, the jurisdiction where Dr. Kouns seeks to have his DEA Certificate of Registration modified, nor in Ohio, where his State medical license has expired. Therefore, the Administrator concludes that Dr. Kouns is also not authorized to handle controlled substances in Alabama, Indiana, or Ohio.

Accordingly, the 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 DEA Certificate of Registration AK8923496 previously issued to George Samuel Kouns, D.O., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26190 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jerry Clifton Lingle, M.D.; Revocation of Registration

On October 10, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Jerry Clifton Lingle, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BL1508285, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Lingle was not authorized by the State of Florida to handle controlled substances. The order also notified Dr. Lingle that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Lingle at his DEA registered premises in Fort Lauderdale, Florida. A postal delivery receipt was signed October 28, 2000, on behalf of Dr. Lingle, indicating the OTSC was received. To date, no response has been received from Dr. Lingle nor anyone purporting to represent him.

Therefore, the Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Lingle is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Administrator finds as follows. Dr. Lingle currently possesses DEA Certificate of Registration BL1508285, issued to him in Florida. By Order of Emergency Suspension of License, dated June 9, 1999, the State of Florida, Department of Health, suspended Dr. Lingle's medical license, finding that ''Dr. Lingle's continued practice as a physician constitutes an immediate and serious danger to the health, safety and welfare of the public[.]'' The investigative file contains no evidence that the Emergency Suspension of Dr. Lingle's medical license has been lifted.

Therefore, the Administrator concludes that Dr. Lingle is not currently licensed or authorized to handle controlled substances in Florida.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); 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).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Lingle is not authorized to practice medicine in Florida, and therefore, the Administrator infers that Dr. Lingle is also not authorized to handle controlled substances in Florida, the State in which he holds his DEA Certificate of Registration.

Accordingly, the 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 DEA Certificate of Registration BL1508285, previously issued to Jerry Clifton Lingle, M.D., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26186 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Trudy J. Nelson, MD; Revocation of Registration

On June 12, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Trudy J. Nelson, MD, notifying her of an opportunity to show cause as to why the DEA should not revoke her DEA Certificate of Registration, BN0504894, pursuant to 21 U.S.C. 824(a)(1), 824(a)(2), 824(a)(3) and 924(a)(4) and deny any pending applications for renewal, pursuant to 21 U.S.C. 823(f). The OTSC also notified Dr. Nelson that should no request for hearing be filed within 30 days, her right a hearing would be deemed waived.

The OTSC was sent to Dr. Nelson's registered location in Sidney, Ohio, and also to another location at Marysville, Ohio. The Sidney, Ohio mailing was returned, unclaimed. The Marysville, Ohio mailing was received June 20, 2000, by individual signing on behalf of Dr. Nelson, as indicated by the signed postal return receipt. To date, no response has been received from Dr. Nelson nor anyone purporting to represent her.

Therefore, the Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Nelson is deemed to have waived her right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order

without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Administrator finds as follows. Pursuant to an investigation conducted by DEA in conjunction with the Sidney, Ohio, Police Department, the Ohio Bureau of Criminal Investigation, the Piqua, Ohio, Police Department, the State of Ohio Pharmacy Board, and the State of Ohio Taxation Department, Dr. Nelson was found to have engaged in a substantial amount of allegedly criminal activity during the period between October 1994 and June 1999. Relevant to the instant matter are her illicit activities relating to controlled substances.

As a result of the investigation, on or about December 28, 1999, in the Court of Common Pleas in Shelby County, Ohio, Dr. Nelson pleaded guilty to one felony count of Attempted Corrupting Another With Drugs; three felony counts of Trafficking in Drugs; and one felony count of Theft of Drugs. Dr. Nelson was sentenced to serve six years incarceration. On January 12, 2000, the State Medical Board of Ohio issued a Notice of Immediate Suspension and Opportunity for Hearing, informing Dr. Nelson *inter alia* that her license to practice medicine and surgery in Ohio was immediately suspended.

Pursuant to 21 U.S.C. 824(a), ''A registration pursuant to section 823 of this title to * * * dispense a controlled substance * * * may be suspended or revoked by the Attorney General upon a finding that the registrant—(1) has materially falsified any application filed pursuant to or required by this subchapter * * *; (2) has been convicted of a felony under this subchapter of subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance in this subchapter as a controlled substance * * *''

In addition, pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Administrator may revoke a DEA Certificate of Registration and deny any pending applications for renewal of such registration if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires 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 Administrator may rely on any one or 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. Schwartz, Jr., MD, 54 FR 16422 (DEA 1989).

Pursuant to 21 U.S.C. 824(a)(1), the Administrator may revoke a DEA Certificate of Registration upon a finding that the registrant has materially falsified an application for registration. The investigative file reveals that, in January 1994, the Complaint Committee of the West Virginia Board of Medicine issued a complaint that alleged that Dr. Nelson renewed her State license to practice medicine and surgery by fraudulent misrepresentation and making a false statement in connection with a licensure application. In lieu of further proceedings, effective April 15, 1994, the West Virginia Board of Medicine accepted the surrender of Dr. Nelson's license to practice medicine and surgery in that State. Additionally, as a result of a falsification of a 1991 registration application for medical licensure in the State of Ohio, on June 6, 1994, Dr. Nelson entered into a Consent Agreement with the State Medical Board of Ohio (Ohio Board) wherein her Ohio State medical license was suspended for an indefinite period of time. Dr. Nelson subsequently entered into a second Consent Agreement with the Ohio Board on August 10, 1994, in response to the Ohio Board's learning of the April 1994 surrender of Dr. Nelson's West Virginia medical license. Pursuant to this second Consent Agreement, Dr. Nelson's Ohio State medical license was again suspended for an indefinite period, and probationary terms were imposed when the license was reinstated.

On October 31, 1994, and again on September 10, 1997, Dr. Nelson executed applications for DEA Certifications of Registration. In response to liability question 2(b) on each application, that states: ''Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?'' Dr. Nelson checked the box marked ''no.''

The Administrator finds that Dr. Nelson knew that her responses on her 1994 and 1997 DEA applications were false. Dr. Nelson had been forced to surrender her West Virginia medical license in April 1994; her Ohio medical license was suspended pursuant to Consent Agreement in June and then again in August 1994; and she executed the first of the DEA registration renewal applications at issue less than two months later. Answers to the liability questions are always material because DEA relies on the answers to these questions to determine whether it is necessary to conduct an investigation prior to granting an application. See Bobby Watts, MD, 58 FR 46995, (1993); Ezzat E. Majd Pour, MD, 55 FR 47547 (1990). Therefore, grounds exist to revoke Dr. Nelson's DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(1).

Pursuant to 21 U.S.C. 824(a)(2), the Administrator may revoke a DEA Certificate of Registration upon a finding that a registrant has been convicted of a felony under the law of any State. The investigative file clearly shows that Dr. Nelson pleaded guilty on or about December 28, 1999, in the Court of Common Pleas in Shelby County, Ohio, to one felony count of Attempted Corrupting Another With Drugs; three felony counts of Trafficking in Drugs; and one felony count of Theft of Drugs. Dr. Nelson was sentenced to serve six years incarceration. Therefore, grounds exist to revoke Dr. Nelson's registration pursuant to 21 U.S.C. 824(a)(2).

Pursuant to 21 U.S.C. 823(f) and 824(a)(f), the Administrator may revoke a DEA Certificate of Registration and deny any pending applications for renewal if he determines that the continued registration would be inconsistent with the public interest. Regarding the public interest analysis pursuant to 21 U.S.C. 823(f), the Administrator has reviewed the five factors, and finds that factors (2), (3), (4), and (5) are most relevant to the instant matter.

Specifically, the Administrator finds with regard to factors two and four that Dr. Nelson pleaded guilty to five felony violations on or about December 28, 1999, in the Court of Common Pleas in Shelby County, Ohio, including one felony count of Attempted Corrupting Another With Drugs; three felony counts of Trafficking in Drugs; and one felony count of Theft of Drugs; and was sentenced to serve six years incarceration. The Administrator therefore concludes that Dr. Nelson

clearly has mishandled controlled substances in the past, and failed to comply with laws relating to controlled substances. See Robert A. Leslie, 64 FR 25908 (1999).

With regard to factor three, as previously set forth, Dr. Nelson pleaded guilty on or about December 28, 1999, in the Court of Common Pleas in Shelby County, Ohio, to one felony count of Attempted Corrupting Another With Drugs; three felony counts of Trafficking in Drugs; and one felony count of Theft of Drugs; and was sentenced to serve six years incarceration.

With regard to factor five, the Administrator finds especially egregious in this matter that Dr. Nelson's array of convictions include one that is especially heinous in light of her purported role as medical healer: her guilty plea to the crime of Attempted Corrupting Another With Drugs. The Administrator finds that the investigative file contains evidence that Dr. Nelson abused her DEA Registration by knowingly feeding and encouraging the addiction of at least one of her patients, and that she subsequently used that patient's minor son as an excuse and a conduit to continue to feed that patient's addiction. Such conduct on the part of a medical professional is as vile as it is disgraceful, and the Administrator denounces such conduct in the strongest possible terms.

The Administrator therefore concludes that it would be inconsistent with the pubic interest to continue Dr. Nelson's registration, and therefore grounds exist to revoke her DEA registration pursuant to 21 U.S.C. 824(a)(4).

Accordingly, the 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 DEA Certificate of Registration, BN0504894, previously issued to Trudy J. Nelson, M.D., be, and it hereby is, revoked, and any pending applications for renewal or modification of said registration be, and they hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26179 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

William Peterson, M.D.; Revocation of Registration

On October 31, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to show Cause (OTSC) by certified mail to William Peterson, M.D., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration AP1632810, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of this registration, pursuant to 21 U.S.C. 824(a)(4) and 823(f), for the reasons that Respondent's license to practice medicine in the jurisdiction in which Respondent practices, North Carolina, was suspended by the North Carolina Medical Board (Board). The Order to Show Cause further alleged that the Board made a finding that, on numerous occasions, the Respondent prescribed controlled substances to individuals for no legitimate medical reason.

By letter filed November 16, 2000, Respondent, *pro se,* requested a hearing in this matter.

On November 22, 2000, Administrative Law Judge Gail A. Randall issued an order for Prehearing Statements. Judge Randall also mailed a letter to Respondent, informing him of his right to representation at his own expense, and enclosed therein a copy of the regulation explaining that right, 21 CFR 1316.50 (2000). On December 13, 2000, the Government filed a motion seeking summary disposition, arguing that Respondent's license to practice medicine, and therefore, to handle controlled substances in the jurisdiction of his DEA registration, was suspended. Since the Government has not received any information that the suspension has been lifted, the Government asserts that the Respondent's registration cannot be maintained.

The Government attached to its motion a sworn Certificate of Registration Status, signed by the Chief of the Registration Unit of the DEA and certifying the Certificate's authenticity; a copy of Respondent's DEA Certificate of Registration, AP1632810, currently assigned to the Respondent in North Carolina, with an expiration date of March 31, 2002; and a Notice of Charges and a copy of an Order of Summary Suspension of License, both of which are signed by the President of the Board and dated August 2, 1999.

By an Order dated December 13, 2000, Judge Randall stayed the proceedings pending the resolution of the Government's motion, and she allowed the Respondent until January 3, 2000, to respond to the Government's motion. No response has been received as of this date.

The 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 Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. §§ 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50,570 (2000); 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).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice medicine in North Carolina, and therefore, the Administrator infers that Respondent is also not authorized to handle controlled substances in North Carolina, where he conducts his business, according to the address listed on his DEA Certificate of Registration. The Administrator finds that Judge Randall allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice medicine in North Carolina or to handle controlled substances in that State.

The Administrator concurs with Judge Randall's finding that it is well settled that when there is no question of material fact involved, there is no need for plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2000); Jesus R. Juarez, M.D., 62 FR 14945 (1997); *see also Philip E. Kirk, M.D.,* 48 FR 32887 (1983), aff'd sub nom. Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him