

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 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 Deputy Administrator finds the Government has presented undisputed evidence demonstrating that the Respondent is not authorized to practice medicine or to administer or prescribe controlled substances in the State of Utah.

Respondent contends the Emergency Order resulted from a closed hearing in which he was not permitted to appear, call witnesses, confront his accusers, or participate in any meaningful fashion. Respondent argues that because a formal hearing has yet to be concluded, the matter before the DEA should be stayed pending the outcome of the proceeding before the Utah State Division of Occupational and Professional Licensing. In support of this contention, Respondent cites to *Hezekiah K. Heath, M.D.*, 51 FR 26,612 (1986) (*Heath*) for the proposition that the DEA has recognized it cannot rely upon a state's suspension where the respondent in a DEA hearing did not have the opportunity to contest the state's action in a plenary hearing.

The Deputy Administrator concurs with Judge Randall's reading of *Heath*, which she found "did not create an exception to the statutory mandate for cases in which a registrant's state license has been suspended by the appropriate state licensing authority without a hearing. Rather, the Administrator informed the Respondent that the DEA would accept as lawful and valid, a state regulatory board's order, unless and until such order had been overturned 'by a state court or otherwise pursuant to state law.'" *Heath* further found that he DEA proceedings were an inappropriate forum in which to challenge a state regulatory board's order. The Deputy Administrator hereby reaffirms *Heath's* conclusion that "\* \* \* 21 U.S.C. 824(a) clearly provides that a registrant's state license need only have been suspended to provide a lawful basis for revocation of a DEA registration." *Id.* at 26,612.

The Deputy Administrator further concurs with Judge Randall's finding that respondent's allegation that he was authorized to handle controlled substances in the State of Nevada is not supported by the evidence, meritless, and ultimately irrelevant. Respondent's DEA Certificate of Registration is for a

Utah address, and Respondent is not authorized to practice medicine or to handle controlled substances in Utah.

The Deputy Administrator also 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 a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. *See Michael G. Dolin, M.D.*, 65 FR 5,661 (2000); *Jesus R. Juarez, M.D.*, 62 FR 14,945 (1997); *see also Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom. Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

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 BA4090320, issued to Layfe Robert Anthony, M.D., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

**John B. Brown, III,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Byron L. Aucoin, M.D.; Revocation of Registration**

On June 29, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Byron L. Aucoin, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BA5204817, 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. Aucoin was not authorized by the State of Louisiana to handle controlled substances. The order also notified Dr. Aucoin 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. Aucoin at his DEA registered premises in Shreveport, Louisiana. A postal delivery receipt was signed July 12, 2001, on behalf of Dr. Aucoin, indicating the OTSC was received. To date, no

response has been received from Dr. Aucoin nor anyone purporting to represent him.

Therefore, the Deputy 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. Aucoin is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 130.143(d) and (e), and 1301.46.

The Deputy Administrator finds as follows: Dr. Aucoin currently possesses DEA Certificate of Registration BA5204817, issued to him in Louisiana. In a letter dated October 30, 2000, the Louisiana State Board of Medical Examiners (Board) notified the DEA New Orleans Field Division that Dr. Aucoin had entered into a Stipulation and Agreement for Voluntary Surrender of his medical license, effective September 27, 2000. Subsequent to his failure to attend a hearing set by the Board to address charges of misconduct, Dr. Aucoin informed the Board that he wished to permanently retire from the practice of medicine in Louisiana by voluntarily surrendering his medical license. The investigative file contains no evidence that Dr. Aucoin's medical license has been reinstated. Therefore, the Deputy Administrator concludes that Dr. Aucoin is not currently licensed or authorized to handle controlled substances in Louisiana.

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 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 Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Aucoin is not authorized to practice medicine in Louisiana, and therefore, the Deputy Administrator infers that Dr. Aucoin is also not authorized to handle controlled substances in Louisiana, the state in which he holds his DES Certificate of Registration.

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 DEA Certificate of Registration BA5204817, previously issued to Byron L. Aucoin, M.D., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

**John B. Brown, III,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Miguel Ramon Castillo-Inzunza, M.D.; Revocation of Registration**

On August 27, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Miguel Ramon Castillo-Inzunza, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BC3931955, 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. Castillo-Inzunza was not authorized by the State of California to practice medicine. The order also notified Dr. Castillo-Inzunza that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

Copies of the OTSC were sent to Dr. Castillo-Inzunza at his DEA registered premises in Santa Ana, California, the United States Penitentiary at Lom Poc, California, and to his attorney in La Jolla, California. The OTSC sent to Dr. Castillo-Inzunza's registered premises was returned, marked "Undeliverable as addressed—forwarding order expired." The OTSC sent to Dr. Castillo-Inzunza's incarceration address was received on September 7, 2001, as indicated by the signed postal return receipt. The OTSC sent to Dr. Castillo-Inzunza's attorney was received September 11, 2001, as indicated by the signed postal return receipt. To date, no response has been received from Dr. Castillo-Inzunza nor anyone purporting to represent him.

Therefore, the Deputy 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.

Castillo-Inzunza is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Deputy Administrator finds as follows. Dr. Castillo-Inzunza currently possesses DEA Certificate of Registration BC3931955, issued to him in California. By Decision dated January 4, 2001, and effective January 11, 2001, the Medical Board of California, Division of Medical Quality (Board) adopted a Stipulated Surrender of Licenses and Order whereby Dr. Castillo-Inzunza, with advice of counsel, surrendered his California State Physician's and Surgeon's Certificate and his Physician Assistants Supervisor Approval to the Board.

The Stipulated Surrender was based upon a series of charges outlined in an Accusation by the Board, dated April 12, 1999, that set forth five Causes for Discipline, to wit: (1) Aiding and Abetting the Unlicensed Practice of Medicine; (2) Gross Negligence and Repeated Negligent Acts; (3) Falsification and/or Alteration of Medical Records; (4) Violation of Drug Statutes and Dishonesty; and (5) Prescribing Without Good Faith Prior Examination and Medical Indication.

The investigative file further reveals Dr. Castillo-Inzunza pleaded guilty in San Diego County Superior Court on or about November 6, 2000, to two counts of Unlawful Practice of Medicine with Serious Injury and was sentenced to two years in Federal prison (to run concurrently with his Federal conviction, *infra*) and a \$400 fine.

Dr. Castillo-Inzunza also pleaded guilty in the United States District Court for the Southern District of California on or about November 7, 2000, to Federal charges relating to the Unlawful Importation of Merchandise and Introduction into Interstate Commerce of Unapproved Drugs, and was sentenced to two years' incarceration, running concurrently with his California State conviction, followed by three years' probation and a \$4,000 fine.

Therefore, the Deputy Administrator concludes that Dr. Castillo-Inzunza is not currently licensed or authorized to handle controlled substances in California.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain 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 Deputy Administrator finds the Government has presented evidence demonstrating that Dr. Castillo-Inzunza is not authorized to practice medicine in California, and therefore, the Deputy Administrator infers that Dr. Castillo-Inzunza is also not authorized to handle controlled substances in California, the State in which he holds his DEA Certificate of Registration. Furthermore the Deputy Administrator finds pursuant to 21 U.S.C. 824(a)(2) that Dr. Castillo-Inzunza has been convicted of a felony relating to the controlled substances in that he caused his employees to illegally transport medications from Mexico into the United States, including codeine and other controlled drugs, in violation of 18 U.S.C. 371 and 545. Dr. Castillo-Inzunza then caused his employees to remove the Spanish labels from the medications and replace them with new labels showing different lot numbers and expiration dates. Dr. Castillo-Inzunza gave at least one of his patients these unlawful Mexican drugs.

In addition, the Deputy Administrator finds pursuant to 21 U.S.C. 824(a)(4) that Dr. Castillo-Inzunza has committed acts that render his registration inconsistent with the public interest, as determined pursuant to 21 U.S.C. 823(f). All five of the public interest factors are adversely implicated by the conduct of Dr. Castillo-Inzunza described above.

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 DEA Certificate of Registration BC3931955, previously issued to Miguel Ramon Castillo-Inzunza, M.D., be, and it hereby is, revoked. The Deputy Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective June 19, 2002.

Dated: May 6, 2002.

**John B. Brown III,**

*Deputy Administrator.*

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