District Court for the District of Massachusetts.

In this action against defendant W.R. Grace & Co.—Conn. (''Grace''), the United States seeks reimbursement of certain response costs and a declaratory judgment for future response costs regarding the W.R. Grace Superfund Site (the ''Site''), located in Action, Massachusetts. Grace has owned and operated a facility at the Site since 1954. The consent decree provides that Grace will reimburse the United States $1,525,000 for Past Response Costs out of about $4.2 million (including interest) and reimburse the United States for all Future Oversight Costs at the Site. Grace is performing cleanup activities at the Site pursuant to a 1980 settlement of claims under the Resource Conservation and Recovery Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *W.R. Grace & Co.—Conn.*, Civil Action No. 97–CV–12583–NG, D.J. Ref. 90–11–2–1241.

The proposed consent decree may be examined at the at the Region I Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203 (contact Gretchen Muench, 617–565–4904) and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $8.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–19123 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Robert M. Golden, M.D.; Denial of Application

On January 9, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert M. Golden, M.D., of Alpharetta, Georgia, 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), for reason for such registration would be inconsistent with the public interest. The order also notified Dr. Golden that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on January 16, 1998. No request for a hearing or any other reply was received by the DEA from Dr. Golden or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that: (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Golden is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Golden previously possessed DEA Certificate of Registration, AG6243125. On May 25, 1994, an Order to Show Cause was issued proposing to revoke that Certificate of Registration, alleging that Dr. Golden's continued registration would be inconsistent with the public interest. Following a hearing before Administrative Law Judge Paul A. Tenney, the then-Deputy Administrator revoked Dr. Golden's DEA registration effective June 17, 1996. See Robert M. Golden, M.D., 61 FR 24808 (May 16, 1996).

In the prior proceeding, the then-Deputy Administrator found that in April 1987, Dr. Golden entered into a Consent Order with the Georgia State Board of Medical Examiners based upon allegations of recordkeeping violations, the prescribing or dispensing of controlled substances while not acting in the usual course of professional practice, and the prescribing or ordering of controlled substances for an illegitimate medical purpose. In addition, the then-Deputy Administrator found that in 1992, a confidential informant received prescriptions for Xanax, a Schedule IV controlled substance, from Dr. Golden who issued the prescriptions using names other than that of the informant. Also, on two occasions in 1992, Dr. Golden issued prescriptions for Xanax to an undercover police officer for no legitimate medical purpose. In his final order the then-Deputy Administrator found that Dr. Golden's conduct ''demonstrate[s] a cavalier behavior regarding controlled substances'' and that ''[Dr. Golden] did not acknowledge any possibility of questionable conduct in his prescribing practices.'' The then-Deputy Administrator found that he ''was provided no basis to conclude that [Dr. Golden] would lawfully handle controlled substances in the future,'' and therefore revoked Dr. Golden's previous registration.

On June 15, 1997, Dr. Golden submitted an application for a new DEA registration. That application is the subject of these proceedings. The Acting Deputy Administrator concludes that the then-Deputy Administrator's May 16, 1996 decision regarding Dr. Golden is *res judicata* for purposes of this proceeding. See Stanley Alan Azen, M.D., 61 FR 57893 (1996) (where the findings in a previous revocation proceeding were held to be *res judicata* in a subsequent administrative proceeding.) The then-Deputy Administrator's determination of the facts relating to the previous revocation of Dr. Golden's DEA registration is conclusive. Accordingly, the Acting Deputy Administrator concludes that the critical consideration in this proceeding is whether the circumstances, which existed at the time of the prior proceeding, have changed sufficiently to support a conclusion that Dr. Golden's registration would be in the public interest.

The Acting Deputy Administrator finds that documentation in the investigative file reveals that since the prior proceeding, Dr. Golden's state medical license was placed on probation on April 4, 1996, for at least four years, pursuant to a Consent Order with the Composite State Board of Medical Examiners for the State of Georgia (Board). As a result of this Consent Order, Dr. Golden is prohibited from handling Schedule I through III controlled substances, and other specifically named substances. In addition, Dr. Golden must use triplicate prescriptions, maintain a log of his handling of controlled substances, and attend continuing medical education courses.

The Acting Deputy Administrator finds that there is a letter with attachments from Dr. Golden dated October 8, 1997, in the investigative file. This documentation reveals that Dr. Golden now practices cosmetic surgery; that he would like to be able to prescribe Valium and Versed, both Schedule IV controlled substances; that he has been in compliance with the Board's April 1996 Consent Order; and

that on May 16, 1997, he completed a course in the appropriate prescribing of controlled substances. On his application for registration, Dr. Golden states that ''I feel that I have become more responsible * * *.'' However, Dr. Golden did not respond to the Order to Show Cause, and therefore did not provide the Acting Deputy Administrator with any other evidence for consideration.

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 such registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered.

(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 be denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989).

As discussed above, Dr. Golden's previous registration was found to be inconsistent with the public interest. Since that time, Dr. Golden's state medical license was again placed on probation until at least April 2000. The Acting Deputy Administrator finds that Dr. Golden has not presented sufficient evidence to indicate that his registration would now be in the public interest. While Dr. Golden has taken a course in the appropriate prescribing of controlled substances, and he asserts on his application that he has ''become more responsible,'' the Acting Deputy Administrator is not convinced that Respondent has accepted responsibility for his previous mishandling of controlled substances. Therefore, the Acting Deputy Administrator concludes that Dr. Golden's registration would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration, executed by Robert M. Golden, M.D., be, and it hereby is, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19081 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Fred D. Oremland, M.D., Revocation of Registration

On January 13, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Fred D. Oremland, M.D., of California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AO4999592, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of California. The order also notified Dr. Oremland that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on January 31, 1998. No request for a hearing or any other reply was received by the DEA from Dr. Oremland or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Oremland is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on August 23, 1995, the Medical Board of California (Board) filed an Accusation against Dr. Oremland alleging improper and excessive treatment; improper and excessive billing; the creation of false medical records; repeated violations of patient confidence; exploitation of a patient; excessive prescribing of dangerous drugs and controlled substances; and violations of statutory recordkeeping requirements. On June 25, 1996, Dr. Oremland entered into a stipulation with the Board whereby he agreed to surrender his physician and surgeon's certificate by October 1, 1996. In addition, Dr. Oremland agreed to waive his right to renew his state certificate and to not seek reinstatement or relicensure for at least three years. This stipulation was accepted by the Board by Order dated July 17, 1996. A letter from the Board dated January 13, 1998, which is in the investigative file, indicates that Dr. Oremland's California physician and surgeon's certificate was in fact surrendered.

The Acting Deputy Administrator finds that in light of the fact that Dr. Oremland is not currently licensed to practice medicine in the State of California, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state. The 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. 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 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 Dr. Oremland is not currently authorized to handle controlled substances in the State of California. Therefore, Dr. Oremland is not entitled to a DEA registration in that state.

Accordingly, the Acting 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, AO4999592, previously issued to Fred D. Oremland, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19082 Filed 7–16–98; 8:45 am]

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