of any similar type behavior since that time.

The Deputy Administrator also finds it relevant under this factor that Respondent was previously addicted to narcotic controlled substances. Respondent has acknowledged her past problems and appears to be remorseful. However, while Respondent asserts that she has undergone treatment and that she has not improperly used controlled substances since 1993, the Deputy Administrator is troubled by the lack of evidence in the record, other than Respondent's own testimony, regarding Respondent's treatment for her addiction. The record is also devoid of evidence of any continued monitoring of Respondent and any support network in place to help prevent a relapse.

The Deputy Administrator agrees with Judge Bittner that the Government has presented a prima facie case for the denial of Respondent's application for registration based upon Respondent's use of her previous DEA registrations to obtain controlled substances for her own use, her abuse of controlled substance, her violation of laws relating to controlled substances, her handling of sodium pentobarbital in 1997 when not authorized to do so, and her theft of a non-controlled substance in 1993 to be used to temporarily immobilize her ex-husband. However, Judge Bittner found credible Respondent's testimony that she has not used controlled substances since 1993 except as prescribed lawfully by a physician. Judge Bittner also found credible Respondent's testimony regarding the circumstances surrounding her theft to ketamine in 1993 and her 1997 handling of sodium penotobarbital, and that she regrets her misconduct, is willing to accept restrictions on her registration, and will not abuse her registration or controlled substances in the future.

Therefore, Judge Bittner concluded that it would not be inconsistent with the public interest to grant Respondent a DEA Certificate of Registration limited to the Schedule II controlled sodium pentobarbital, the Schedule III controlled substances ketamine and thiopental, and the Schedule IV controlled substance butorphanol subject to the following conditions:

(1) Respondent shall maintain accurate records showing all purchases, administering and dispensing (including prescribing) of all controlled substances; and

(2) Respondent shall submit copies of all such records to the Special Agent in Charge of DEA's New Orleans Office, or his designees, quarterly, for five years from the effective date of her registration.

The Deputy Administrator agrees with Judge Bittner that it is not in the public interest to deny Respondent's application for registration and basically agrees with Judge Bittner's recommended restrictions. However, the Deputy Administrator is extremely reluctant to grant Respondent the authority to handle ketamine, the very substance she admitted stealing in 1993 to potentially use to incapacitate her ex-husband. Nonetheless, the Deputy Administrator will do so given that the Veterinary Board recommended that Respondent be authorized to handle ketamine and the recommendation of the appropriate state licensing authority is one of the factors to be considered by the Deputy Administrator in determining the public interest. The Deputy Administrator is also troubled by the lack of evidence in the record, other than Respondent's own testimony, regarding her treatment and rehabilitation. Consequently, the Deputy Administrator finds it necessary to have safeguards in place to be certain that Respondent does not abuse controlled substances once she is issued a limited registration.

Therefore, the Deputy Administrator concludes that Respondent should be issued a DEA Certificate of Registration in Schedules II non-narcotic, III and IV subject to the following restrictions for three years from the date of issuance of the DEA Certificate of Registration:

(1) While Respondent shall be registered in Schedules II non-narcotic, III and IV, she shall only handle sodium pentobarbital, ketamine, thiopental, and butorphanol.

(2) Respondent shall send copies of records documenting all of her purchases of controlled substances to the Special Agent in Charge of the DEA New Orleans office, or her designee, on a quarterly basis.

(3) Respondent shall submit, on a quarterly basis, a log of all of the controlled substances she has prescribed, administered, or dispensed during the previous quarter, to the Special Agent in Charge of the DEA New Orleans office, or his designee. The log shall 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, Respondent shall indicate that fact in writing, in lieu of submission of the log.

(4) Respondent shall submit to random urinalysis, at her own expense, not less than one time per month. Within 30 days of the effective date of this order, Respondent shall notify the Special Agent in Charge of the DEA New Orleans office, or his designee, in writing, as to the identity of the laboratory or hospital that will be conducting the random urinalysis. Reports documenting the results of these tests shall be forwarded to the Special Agent in Charge of the DEA New Orleans office, or his designee.

(5) Respondent shall consent to random, unannounced inspections without the need for an Administrative Inspection Warrant.

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 Judy L. Henderson, D.V.M., be, and it hereby is, granted in Schedules II non-narcotics, III and IV, 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.

Dated: January 18, 2000.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 00–2540 Filed 2–3–00; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Archibald W. Hutchinson, M.D.; Revocation of Registration

On July 28, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Archibald W. Hutchinson, M.D., of Marietta, Ohio, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BH2898053 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), for reason that he is not currently authorized to handle controlled substances in the State of Ohio. The order also notified Dr. Hutchinson that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent to Dr. Hutchinson at his registered location. DEA received a signed receipt indicating that it was received and signed for by an individual on November 3, 1999. The Order to Show

Cause was also sent to Dr. Hutchinson at his last known address in Illinois. The return receipt indicates that the Order to Show Cause was forwarded to another address in Illinois and was signed for on or about August 20, 1999. No request for a hearing or any other reply was received by the DEA from Dr. Hutchinson or anyone purporting to represent him in this matter. Therefore, the 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. Hutchinson is deemed to have waived his hearing right. After considering material from 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) 1301.46. This final order replaces and supersedes the final order issued on January 3, 2000.

The Deputy Administrator finds that Dr. Hutchinson currently possesses DEA Certificate of Registration BH2898053 issued to him in Ohio. The Deputy Administrator further finds that on July 8, 1998, the State Medical Board of Ohio permanently revoked his license to practice medicine in the State of Ohio. Therefore, the Deputy Administrator concludes that Dr. Hutchinson is not currently licensed to practice medicine in Ohio, and as a result, 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. See 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. Hutchinson is not currently authorized to handle controlled substances in the State of Ohio. As a result, he is not entitled to a DEA registration in that state.

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 BH2898053, previously issued to Archibald W. Hutchinson, M.D., be, and it hereby is revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective March 6, 2000, and is considered 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. 00–2527 Filed 2–3–00; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 99-36]

Kenneth Leroy Jones, M.D.; Revocation of Registration

On August 24, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Kenneth Leroy Jones, M.D. (Respondent) of Paintsville, Kentucky, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AJ1551399, and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f) and 824(a)(3). The Order to Show Cause alleged that Respondent was not currently authorized to handle controlled substances in the Commonwealth of Kentucky.

By letter dated September 17, 1999, Respondent requested a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On October 20, 1999, the Government filed a Motion for Summary Disposition, alleging that Respondent is currently registered with DEA to handle controlled substances in Kentucky, however, he is not currently authorized by the Commonwealth of Kentucky to handle controlled substances. Respondent was given until November 10, 1999, to file a response to the Government's motion. Respondent failed to file a timely response.

On November 18, 1999, Judge Bittner issued her Opinion and Recommended Decision finding that Respondent lacks authorization to handle controlled substances in the Commonwealth of Kentucky; granting the Government's Motion for Summary Disposition; and recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her Opinion and Recommended Decision, however on November 30, 1999, Respondent filed a letter with Judge Bittner indicating that he no longer wished to pursue this matter and asking that favorable consideration be given to any future applications for registration with DEA. On December 20, 1999, Judge Bittner transmitted the record of these proceedings to the Office of 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 Opinion and Recommended Decision of the Administrative Law Judge.

As a preliminary matter, the Deputy Administrator has not considered Respondent's letter filed on November 30, 1999, since it was not timely filed and Respondent has not offered any explanation for the late filing.

The Deputy Administrator finds that Respondent possesses DEA Certificate of Registration AJ1551399, issued to him at an address in Paintsville, Kentucky. The Deputy Administrator further finds that on January 7, 1999, the Commonwealth of Kentucky, State Board of Medical Licensure ordered the revocation of Respondent's Kentucky medical license. Respondent did not dispute that he is not currently authorized to practice medicine in Kentucky.

Therefore, the Deputy Administrator finds that Respondent is not currently authorized to practice medicine in the Commonwealth of Kentucky. As a result, it is reasonable to infer that he is also not authorized to handle controlled substances in that state.

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

In light of the above, Judge Bittner 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 Kentucky. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving