DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Eustance F. Douglas, M.D.; Revocation of Registration

On July 22, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Eustance F. Douglas, M.D., of Racine, Wisconsin, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AD2704256, 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 Wisconsin. The order also notified Dr. Douglas 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 by Dr. Douglas on July 27, 1996. No request for a hearing or any other reply was received by the DEA from Dr. Douglas 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. Douglas is deemed to have waived his hearing right. After considering the relevant materials from the investigative file in the matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.54(e) and 1301.57.

The Acting Deputy Administrator finds that by a Final Decision and Order dated August 25, 1993, the Wisconsin Medical Examining Board accepted Dr. Douglas's surrender of his Wisconsin license to practice medicine and surgery effective August 31, 1993. The Acting Deputy Administrator finds that in light of the fact that Dr. Douglas is not current licensed to practice medicine in the State of Wisconsin, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

The 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. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 F.R. 51,104 (1993); *James H. Nickens,* M.D., 57 F.R. 59,847 (1992); Roy E. Hardman, M.D., 57 F.R. 49,195 (1992).

Here, it is clear that Dr. Douglas is not currently authorized to handle controlled substances in the State of Wisconsin. Therefore, Dr. Douglas 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 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AD2704256, previously issued to Eustance F. Douglas, 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 May 22, 1997.

Dated: April 8, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–10372 Filed 4–21–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–21]

Ellis Turk, M.D.; Denial of Application

On February 12, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ellis Turk, M.D., (Respondent) of Baltimore, Maryland, 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 that such registration would be inconsistent with the public interest.

By letter received by DEA on March 12, 1996, Respondent, through counsel, timely filed a request for a hearing, and following prehearing procedures, a hearing was held in Arlington, Virginia on September 4, 1996, before Administrative Law Judge Paul A. Tenney. At the hearing both parties called witnesses to testify and introduced documentary evidence. After the hearing, both sides submitted proposed findings of fact, conclusions of law and argument. On November 22, 1996, Judge Tenney issued his Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's application for a DEA Certificate of Registration should be granted subject to various temporary limitations. On December 11, 1996, Government counsel filed exceptions to the Recommended Ruling of the Administrative Law Judge, and subsequently, Respondent's counsel filed a response to the Government's exceptions. Thereafter, on January 14, 1997, Judge Tenney transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issued his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Deputy Administrator finds that Respondent previously possessed DEA Certificate of Registration, AT2444711. On April 15, 1993, and Order to Show Cause was issued proposing to revoke that Certificate of Registration, alleging that Respondent's continued registration would be inconsistent with the public interest. Following a hearing before Administrative Law Judge Mary Ellen Bittner, the then-Deputy Administrator adopted the Opinion and Recommended Decision of Judge Bittner and revoked Respondent's DEA registration in a final order dated March 30, 1995, and effective May 8, 1995. See *Ellis Turk, M.D.*, 60 FR 17,577 (April 6, 1995).

In the prior proceeding, the then-deputy Administrator found that in 1987, DEA had received reports from drug distributors that Respondent had purchased excessive quantities of phentermine and phendimetrazine, both controlled substances. Consequently, on two occasions in December 1988, DEA, pursuant to administrative inspection warrants, conducted an accountability audit of controlled substances at Respondent's office covering the period December 29, 1987, through December 12, 1988. This audit revealed shortages of phentermine and phendimetrazine. These shortages were confirmed by a second audit conducted by a different DEA investigator using different records than those used for the previous audit. As a result of the audits, on November 22, 1989, a civil complaint was filed in the United States District Court for the District of Maryland. Following a bench trial, the court found that Respondent failed to comply with the recordkeeping requirements of the Controlled Substances Act (CSA) and assessed a civil penalty of $24,000.00. The decision of the District Court was upheld by the United States Court of Appeals for the Fourth Circuit. Respondent brought a civil action

against the United States Government alleging abuse of process, malicious abuse of process, constitutional violations, interference with the physician-patient relationship, harassment, intentional infliction of emotional distress, and invasion of privacy. Respondent's complaint was dismissed for lack of federal subject matter jurisdiction and lack of process.

In his final order, the then-Deputy Administrator noted that Judge Bittner had found that ''the evidence provided by the Government clearly established the shortages in Respondent's accountability of controlled substances, and that although Respondent offered various documents into evidence, none of them offered any plausible or coherent explanation for the discrepancies found in the investigation.'' In addition, Judge Bittner found ''that the Respondent, throughout the course of his previous litigation, as well as the instant case, continuously had been defensive, hostile, and uncooperative and had insisted on clouding the issues with tangential arguments and rhetorical allegations of political wrongdoing.'' The then-Deputy Administrator adopted Judge Bittner's opinion and recommended decision in its entirety.

On July 10, 1995, Respondent 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 March 30, 1995 decision regarding Respondent is *res judicata* for purposes of this proceeding. See, *Stanley Alan Azen, M.D.,* 61 FR 57,893 (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 the Respondent's DEA registration is conclusive. Accordingly, the Acting Deputy Administrator adopts the March 30, 1995 final order in its entirety. 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 Respondent's registration would be in the public interest.

The Acting Deputy Administrator finds that on April 13, 1995, after receiving notice of the revocation of his previous DEA registration, Respondent telephoned the DEA Baltimore office and complained about both the District Court Judge in the civil action and Judge Bittner. Respondent asserted that there was a conspiracy against him and that if the drug distributors had not reported him, none of this would have happened. He further asserted that his records have always been good.

On May 5, 1995, when Respondent met with representatives of DEA to surrender his DEA Certificate of Registration and his controlled substances prior to the effective date of the revocation, it was discovered that Respondent had in his possession outdated drugs that he had failed to include in his inventory of controlled substances. Respondent testified at the hearing in this matter that he came into possession of these outdated drugs when he purchased the medical practice of another doctor in 1980. Respondent stated that he advised state agents about the drugs at the time he took over the medical practice, but did not feel comfortable disposing of the drugs in the manner suggested by the state agents, and instead kept them locked up until turning them over to DEA in May 1995.

On February 22, 1996, DEA received a letter from Respondent to the Administrator of DEA complaining about the DEA Baltimore office ''and others'' and requesting that his DEA registration be returned to him. Respondent asserted that, ''[i]n December of 1988, DEA officials from the Baltimore office along with a State of Maryland drug official, entered my office three times unannounced and without a proper warrant. They illegally seized my records and harassed me, my staff, and numerous patients.'' Regarding the civil case, Respondent argued that ''I proved that my inventory of these two medications was properly reconciled in writing and the issue should never have gone to trial! However, [the District Court Judge] would not or could not believe the pleading I entered in the case! He is very ill with Parkinson's disease and probably suffers from dementia.'' Respondent then stated that ''my DEA license was taken from me fraudulently on May 8, 1995.'' He stated that Judge Bittner had the same pleading that the District Court Judge had ''showing proper reconciliation of my inventory.'' Respondent claimed that ''[his] case went from Judge Bittner to Mr. Steve Green, your deputy, who rubber-stamped Judge Bittner * * *.'' He then alleged that several doctors who had treated him in the past made ''the false complaint [that initiated this matter] since they have the motive and strong government connections.'' Respondent went on to state, ''I can understand a false complaint, but why would DEA (of Baltimore) etc. take it to such extremes (seven years now!)—was somebody paid off?''

At the hearing in this matter, Respondent testified that he had adopted the inventory techniques used by the prior physician who owned the practice which consisted of a ledger book with reconciliation every six months. Respondent unequivocally stated at the hearing that his records were correct and that the audits conducted by DEA were wrong. Specifically, Respondent stated that ''I think there was an incorrect count, whether on purpose or unintentionally by the DEA. They were in error * * * I will continue to state that.'' Later, Respondent testified, ''There were no errors on my part * * *. The mistakes were made by the DEA * * *. They made up 11½ bottles missing.'' In response to a question as to how he would keep records differently now, Respondent stated, ''I have simplified it a little bit * * *. It isn't much different * * *.'' He then described an eight column accounting form that can be reconciled on a daily basis.

Respondent was asked whether he was willing to cooperate with DEA and to discuss his inventorying techniques. He responded, ''Well, I hope if they want to come and review my inventory, I certainly will allow them. I hope it's not like the last time.'' Respondent's counsel asked, ''You would just hope that that wouldn't occur during office hours; am I hearing you correctly?'' Respondent answered, ''That's what I thought when it said reasonable time and place. I didn't think it meant in the middle of office hours.'' Later Respondent stated, ''And I would hate to have the same thing happen that happened in 1988 when they came in three times improperly.'' Specifically in response to questions about his future cooperation with DEA, Respondent testified, ''I have eight years of harassment and false charges that make me very wary of the DEA.'' Respondent further testified, ''I've always cooperated with the authorities.'' However, Respondent acknowledged that the only time that DEA has ever inspected his recordkeeping was in December 1988.

One of Respondent's patients testified that she has known Respondent for 16 years and finds him to be an honest and good doctor, who not only dispenses medication, but talks to his patients. She has never known him to dispense medication so as to increase her dosage.

Respondent introduced evidence at the hearing that indicates that he is in good standing with the Maryland Board

of Physician Quality Assurance and the Maryland Division of Drug Control.

The Government contends that Respondent's application for registration should be denied based upon the shortages of phentermine and phedimetrazine that were established at the prior proceeding, as well as Respondent's continued refusal to accept responsibility for the shortages and to recognize DEA's statutory authority to conduct inspections. The Government further contends that Respondent's testimony indicates that he is unwilling to cooperate with DEA in the future. Finally, the Government argues that Respondent failed to maintain an inventory of outdated drugs as required by the regulations.

Respondent contends that he should be granted a DEA registration. Although he believes that DEA erred, he is willing to work with DEA regarding his controlled substance handling practices. He is in good standing with the state licensing boards and has never been convicted of a controlled substance offense. Respondent further contends that the outdated drugs were abandoned by his predecessor and that he kept them securely locked rather than disposing of them in an environmentally unsound manner. Respondent argues that the Government is estopped from raising the issue of the outdated drugs because the DEA was aware of these drugs from its 1988 inspection, yet did not raise the issue during the previous revocation proceeding.

Respondent suggests that should he not be issued an unrestricted DEA Certificate of Registration, he should be issued a registration subject to the following limitations:

A. Dr. Turk will provisionally resume use of a Certificate of Registration to prescribe Schedule II controlled substances and to dispense Schedule III, IV and V controlled substances.

B. Dr. Turk will provide carbon (carbonless) copies of his prescriptions for Schedule II controlled substances to authorized DEA personnel upon request, with patient names redacted.

C. The Certificate is provided upon the condition that Dr. Turk waives any requirement(s) for an administrative warrant for ''spot'' inventories to be conducted by authorized DEA personnel. Said waiver shall continue for a least two years from the date of this recommendation.

D. The Certificate is provided upon the condition that Dr. Turk maintain a readily retrievable inventory ledger in addition to his ''med sheets,'' and will provide the same to DEA personnel upon request, with patient names redacted. Dr. Turk must agree that he will fully comply with all applicable sections and sub-sections of 21 CFR 1301–1304 (6/1/96 and subsequent editions).

E. The Certificate is provided on the condition that Dr. Turk agree to meet with appropriate DEA personnel on a scheduled basis (mutual convenience) once every six months (for at least a two year-period) and to review records and conduct discussions deigned to maximize cooperation between the parties.

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 Administrative 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.,* Docket No. 88–42, 54 FR 16,422 (1989).

The Administrative Law Judge found that all five factors are relevant in this proceeding. Regarding factor one, Judge Tenney found, and the Acting Deputy Administrator concurs, that there is no evidence of any adverse action against Respondent by the state licensing authorities. It is controverted that Respondent's medical license and license to handle controlled substances in the State of Maryland are in good standing.

As to factor two, the Administrative Law Judge found that ''[t]here is no adverse evidence concerning Respondent's dispensing experience.'' As of the date of the hearing, he had been practicing medicine for 27 years, and had been conducting a diet practice since 1980. Judge Tenney noted that a patient of Respondent testified that Respondent had never dispensed her medication so as to increase her dosage. In its exceptions to Judge Tenney's Opinion and Recommended Ruling, the Government argues that Judge Tenney improperly allowed the testimony of this patient, since she had not been disclosed as a potential witness to the Government until the day of the hearing. In its response to the Government's exceptions, Respondent contends that rebuttal witnesses need not be disclosed in advance of a hearing, and the Administrative Law Judge was careful to limit the patient's testimony. The Acting Deputy Administrator finds that DEA's regulations do not address rebuttal testimony, nevertheless as a general proposition, rebuttal witnesses need not be disclosed in advance of a hearing. The Acting Deputy Administrator therefore rejects the Government's exception and concurs with Judge Tenney's finding that there is no adverse evidence concerning Respondent's dispensing experience.

Concerning factor three, the Acting Deputy Administrator concurs with Judge Tenney's finding that Respondent has not been convicted of any Federal or State laws relating to the manufacture, distribution or dispensing of controlled substances.

Regarding Respondent's compliance with controlled substance laws under factor four, the Administrative Law Judge found that the United States District Court for the District of Maryland found Respondent liable for failing to comply with the recordkeeping requirements of the CSA and his previous registration was revoked based upon the shortages discovered as a result of the accountability audits. However, Judge Tenney noted that Respondent has now agreed to change his inventory practices to have a readily retrievable inventory.

The Acting Deputy Administrator finds that the shortages revealed by the accountability audits demonstrate Respondent's failure to maintain complete and accurate records of controlled substances as required by 21 U.S.C. 827 and 21 CFR 1304.21. Respondent's noncompliance with these provisions has previously been found by a United States District Court Judge, the United States Court of Appeals for the Fourth Circuit, Judge Bittner and the then-Deputy Administrator in the previous revocation proceeding. Despite these findings, Respondent continues to deny that there was anything wrong with this recordkeeping, instead blaming DEA and alleging that DEA made up the shortages. Respondent has not presented any credible evidence in any of these proceedings to explain the discrepancies in his recordkeeping.

The Acting Deputy Administrator is not convinced that Respondent's asserted changes to his recordkeeping practices will result in improved compliance with the laws relating to controlled substances. First, Respondent emphatically denies that there was anything wrong with his previous recordkeeping practices. Respondent's failure to accept responsibility for his misconduct does not augur well for his future compliance. Also, in describing the proposed changes in his recordkeeping, Respondent testified ''I have simplified it a little bit * * * It isn't much different * * *.''

In addressing the outdated drugs that were in Respondent's possession, the Administrative Law Judge found that ''Respondent failed either to dispose of or to maintain an inventory of outdated drugs in his possession and his estopped argument is not developed.'' However, Judge Tenney noted that Respondent's failure to dispose of or inventory the expired drugs is not likely to recur since he has only changed his practice once and that was sixteen years ago. The Acting Deputy Administrator agrees with Judge Tenney. Respondent violated 21 CFR 1304.13 by failing to include the outdated drugs in his inventory of controlled substances. However, given the circumstances regarding Respondent's possession of these drugs, it is unlikely that this violation will be repeated.

As to factor five, Judge Tenney found that ''Respondent has had a diet practice since 1980. The accountability audits revealed shortages. However, there is no evidence that Respondent diverted any controlled substances. At most, Respondent had faulty inventory practices.''

The Government disagreed, in its exceptions to Judge Tenney's Opinion and Recommended Ruling, with Judge Tenney's characterization under factor five that the shortages of controlled substances merely reflected faulty inventory practices. The Government contends that ''[s]ince Respondent has never demonstrated that the audits were incorrect, the more plausible explanation is that the controlled substances were somehow diverted into illicit uses.'' Furthermore, the Government argues that since the findings of the previous revocation proceeding are *res judicata,* it would be inconsistent to find that the shortages warranted revocation in the prior proceeding, but not in the present case. The Government noted that the significant question in this proceeding is whether there has been a significant change in circumstances from the prior proceeding. The Government argues that the Administrative Law Judge failed to make any findings ''pertaining to Respondent's continued denial of the audit shortages and Respondent's continued hostility towards regulation by DEA.'' The Government asserted in its exceptions that ''[i]t would be hard to imagine a case where a DEA applicant has exhibited less of a change in attitude than Respondent has between the revocation proceeding and the present hearing.''

In his response to the Government's exceptions, Respondent argues that the Government is collaterally estopped from arguing that Respondent unlawfully diverted controlled substances. Respondent further argues that ''the Government provides no factual basis, whatsoever, for its assertion that the more plausible explanation [for the shortages] is that the controlled substances in question were somehow diverted into illicit use.'' Respondent also takes issue with the Government's exception that the Administrative Law Judge did not consider Respondent's continued denials of the audit shortages and his alleged hostility toward DEA. Respondent argues that ''[n]owhere is hostility addressed in the record by Government counsel'' and the Government is bound by the record.

As to the Government's assertions regarding Respondent's diversion of controlled substances, the Acting Deputy Administrator finds that no evidence was presented at the prior proceeding that the shortages revealed by the audits were a result of illicit diversion. Therefore, the Acting Deputy Administrator agrees with Respondent that the Government is colleratelly estopped from raising that argument in this proceeding. However, the Acting Deputy Administrator understands the Government's concern regarding Judge Tenney's statement about the shortages that, ''[a]t most, Respondent had faulty inventory practices.'' The Acting Deputy Administrator concludes that while diversion was not proven in the prior proceeding, at the very least, the audit results revealed faulty recordkeeping. This is extremely significant, because without proper recordkeeping, it is difficult to detect whether or not diversion is occurring.

The Acting Deputy Administrator agrees with the Government's assertion that the Adminitrative Law Judge did not make findings regarding Respondent's continued denial of the audit shortages and his continued hostility towards regulation by DEA. Respondent contends that the Government cannot now raise this issue because ''[n]owhere is hostility addressed in the record by Government counsel'' and the Government is bound by the record. As noted above, 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 Respondent's registration would be in the public interest. While the Administartive Law Judge found that Respondent has vowed to change his inventory practices, Judge Tenney did not address whether other circumstances that were found to exist in the prior proceeding have changed. In the final order revoking Respondent's previous registration, the then-Deputy Administrator adopted Judge Bittner's finding that ''Respondent, throughout the course of his previous litigation, as well as the instant case, continously had been defensive, hostile, and uncooperative and had insisted on clouding the issues with tangential arguments and rhetorical allegations of political wrongdoing.''

The Acting Deputy Administrator concludes that the record in this proceeding indicates that Respondent's attitude has not changed since issuance of the earlier final order. First, in April 1995, immediately after notification of the earlier revocation, Respondent telephoned the local DEA office complaining about the District Court Judge and Judge Bittner and alleging that there was a conspiracy against him. Respondent submitted the application for registration that is the subject of this proceeding in July 1995. Then in February 1996, approximately six months before the hearing in this matter, Respondent sent a letter to the Administrator of DEA alleging that members of the local DEA office entered his office improperly and illegally seized his records; that his evidence to explain the audit results was ignored by the District Court Judge in the civil action, Judge Bittner, and the then-Deputy Administrator; that his previous DEA registration was fraudulently taken from him; and that he believed that the investigation of him was initiated based upon a false complaint made by doctors who had treated him in the past. All of these allegations were made despite findings to the contrary by the United States District Court Judge and the United States Court of Appeals for the Fourth Circuit in the civil proceeding, and by Judge Bittner and then then-Deputy Administrator in the prior revocation proceeding. Finally, at the hearing in this matter, Respondent continued to deny that there was anything wrong with his recordkeeping and went so far as to claim that DEA

made up the shortages; continued to maintain that DEA was in his office improperly in 1988; and continued to assert that the claims against him were false and that he was harassed. Also, while Respondent indicated that he was willing to cooperate with DEA, he also made it clear that he was wary of DEA based upon the false charges and harassment against him, and that he believed that inspections should only be conducted when it is convenient for him and not during normal business hours. This last assertion is at odds with DEA's inspection authority under 21 U.S.C. 880, which requires that administrative inspection warrants be served during normal business hours.

Judge Tenney concluded that registration of Respondent would not inconsistent with the public interest with the imposition of the limitations suggested by Respondent. Therefore, Judge Tenney recommended that Respondent be granted a DEA Certificate of Registration subject to the temporary limitations suggested by Respondent. The Government filed an exception to this proposed sanction arguing that Respondent's application should be denied. Alternatively, the Government argued that if the Administrative Law Judge's recommendation is adopted by the Acting Deputy Administrator, the names and addresses of the patients on the records should not be redacted.

The Acting Deputy Administrator notes that 21 C.F.R. 1306.05 and 1304.24 require that prescriptions and records of dispensing contain the patient's name and address, and that to allow Respondent to redact that information would in effect subject him to lesser requirements than other registrants. However, the Acting Deputy Administrator finds that the Government has met its burden of proof that Respondent's registration would be inconsistent with the public interest. As the Government noted in its exceptions, in *Shatz* v. *United States Department of Justice*, 873 F. 2d 1089, 1091 (8th Cir. 1989), the court held that once the Government had met its burden, the Respondent then had the burden to rebut the evidence and to prove sufficient rehabilitation. As discussed above, while Respondent has stated that he has changed his inventory practices, there is more than sufficient evidence in the record to indicate that Respondent has not accepted responsibility for his prior actions as a DEA registrant, has not significantly changed his inventory practices, and has not exhibited a willingness for DEA to inspect his records ''at any time'', as suggested in his response to the Government exceptions. Consequently, the Acting Deputy Administrator finds that Respondent's registration with DEA 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 C.F.R. 0.100(b) and 0.104, hereby orders that the application for registration, executed by Ellis Turk, M.D., be, and it hereby is, denied. This order is effective May 22, 1997.

Dated: April 8, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–10371 Filed 4–21–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

[OJP(OVC)–1113]

RIN 1121–ZA60

Victims of Crime Act Victim Assistance Grant Program

AGENCY: Office of Justice Programs, Office for Victims of Crime, Justice.

ACTION: Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), is publishing Final Program Guidelines to implement the victim assistance grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, *et seq.* (hereafter referred to as VOCA).

EFFECTIVE DATE: These guidelines are effective from October 1, 1996 (Federal Fiscal Year 1997 VOCA grant program), until further revised by OVC.

FOR FURTHER INFORMATION CONTACT: Jackie McCann Cleland, Director, State Compensation and Assistance Division, 633 Indiana Avenue, NW., Washington, DC 20531–0001; e-mail address: Jackie@OJP.USDOJ.GOV; telephone number 202/307–5983. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VOCA authorizes federal financial assistance to states for the purpose of compensating and assisting victims of crime, providing funds for training and technical assistance, and assisting victims of federal crimes. These Program Guidelines provide information on the administration and implementation of the VOCA victim assistance grant program as authorized in Section 1404 of VOCA, Public Law 98–473, as amended, codified at 42 U.S.C. 10603, and contain information under the following headings: *Summary of the Comments to the Proposed Program Guidelines; Background; Allocation of VOCA Victim Assistance Funds; VOCA Victim Assistance Application Process; Program Requirements; Financial Requirements; Monitoring; and Suspension and Termination of Funding.* The Guidelines are based on the experience gained and legal opinions rendered since the inception of the grant program in 1986, and are in accordance with VOCA. These Final Program Guidelines are all inclusive. Thus, they supersede any Guidelines previously issued by OVC.

OVC, in conjunction with DOJ's Office of Policy Development, and the Office of Information and Regulatory Affairs within the Office for Management and Budget (OMB), has determined that these Guidelines do not represent a ''significant regulatory action'' for the purposes of Executive Order 12866 and, accordingly, these Program Guidelines were not reviewed by OMB.

In addition, these Program Guidelines will not have a significant economic impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is not required by the Regulatory Flexibility Act, codified at 5 U.S.C. 601, *et seq.*

The program reporting requirements described in the *Program Requirements* section have been approved by OMB as required under the Paperwork Reduction Act, 44 U.S.C. 3504(h). (OMB Approval Number 1121–0014).

Summary of the Revisions to the 1997 Final Program Guidelines

As a result of comments from the field, recent legislative amendments, and modifications of applicable federal regulations, substantive changes were made to four sections of the Proposed Program Guidelines, including: the *Availability of Funds*, the *Application Process*, the *Program Requirements*, and the *Financial Requirements.* These changes are summarized in the paragraphs below, and incorporated into the complete text of the *Final Program Guidelines for Crime Victim Assistance Grants.* The Final Program Guidelines also include several technical corrections that are not listed in this summary because they do not affect policy or program implementation.

A. Comments From the Field

In the interest of reaching a more diverse audience and making the review and comment process more convenient for victim service advocates and providers, OVC took several steps. In April, 1996, OVC asked the state VOCA