

Dated: July 31, 1996.

Gene R. Haislip,

*Deputy Assistant Administrator, Office of  
Diversion Control, Drug Enforcement  
Administration.*

[FR Doc. 96-20163 Filed 8-7-96; 8:45 am]

BILLING CODE 4410-09-M

**[Docket No. 96-11]**

**Gerald E. Vangsgard, M.D.; Revocation  
of Registration**

On November 27, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Gerald Vangsgard, M.D., (Respondent), of Carmel, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AY0018970, and deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f), for the reason that on December 28, 1993, the California Medical Board (Board) issued a Decision which prohibited him from practicing medicine until such time as he passed required examinations, which he had not done.

The Respondent filed a timely request for a hearing, and the matter was docketed before Administrator Law Judge Mary Ellen Bittner. However, prior to the hearing, the Government filed a Motion for Summary Disposition on January 17, 1996, noting that the Respondent was unauthorized to practice medicine in California until requirements levied by an order of the Board had been met. Attached to the motion was a copy of the Board's accusations, a copy of a Stipulation and Waiver signed by the Respondent on July 2, 1993, and a copy of the Board's order dated December 28, 1993, which adopted the Stipulation and Waiver as its decision. The Respondent was afforded an opportunity to respond to the Government's motion on or before February 2, 1996. The Respondent did not file a response specifically addressing the Government's motion, but the Respondent's physician submitted a letter stating that the Respondent planned to meet the Board's requirements in the spring of 1996. However, the Respondent has not denied that he is not authorized to handle controlled substances in the State of California.

On February 15, 1996, Judge Bittner issued her Opinion and Recommended Decision, (1) Finding that the Respondent had not taken and passed the required examinations and therefore, lacked authorization to

practice medicine in California; (2) finding that it was reasonable to infer, and that the Respondent had not denied, that he thus lacked state authorization to handle controlled substances; (3) granting the Government's Motion for Summary Disposition; and (3) recommending that the Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her decision, and on March 15, 1996, Judge Bittner transmitted the record of these proceedings and her opinion to 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 decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

Specifically, the Deputy Administrator finds that the Respondent signed a Stipulation and Waiver on July 2, 1993, in response to the Board's accusation filed against the Respondent on September 16, 1992. In relevant part, the Stipulation and Waiver ordered the Respondent to pass an oral and a written examination, and prohibited him from practicing medicine until he met this requirement and received written notification from the Board. Further, the Respondent was ordered to undergo a medical and a psychiatric evaluation, and he was not to engage in the practice of medicine until he was notified in writing by the Division of its determination that the Respondent is medically and mentally fit to practice medicine. On December 28, 1993, the Board adopted the Stipulation and Waiver.

In the Motion for Summary Disposition, the Government asserted that it did not have any indication that the Respondent had taken and passed the required examinations, or that the Board's restrictions had been removed. The Deputy Administrator finds that the Respondent has not submitted any information or evidence to the contrary, and concludes that the Respondent consequently is not authorized to practice medicine or to handle controlled substances in the State of California.

The Drug Enforcement Administration cannot register or maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the

state in which he conducts his business. See 21 U.S.C. 823(f) (authorizing the Attorney General to register a practitioner to dispense controlled substances only if the applicant is authorized to dispense controlled substances under the laws of the state he or she practices); 802(21) (defining "practitioner" as one authorized by the United States or the state in which he or she practices to handle controlled substances in the course of professional practice or research). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 FR 51,104 (1993); James H. Nickens, M.D., 57 FR 59,847 (1992); Roy E. Hardman, M.D., 57 FR 49,195 (1992); Myong S. Yi, M.D., 54 FR 30,618 (1989); Bobby Watts, M.D., 53 FR 11,919 (1988).

Here, it is clear that the Respondent is not currently authorized to practice medicine in California. The Deputy Administrator agrees with Judge Bittner's finding that "[i]t is therefore reasonable to infer, and Respondent does not deny, that because he is not authorized to practice medicine, he is also not authorized to handle controlled substances." Likewise, since the Respondent lacks state authority to handle controlled substances, DEA lacks authority to continue the Respondent's registration.

Judge Bittner also properly granted the Government's motion for summary disposition. Here, the parties did not dispute that the Respondent was unauthorized to handle controlled substances in California, the state in which he proposed to conduct his practice. Therefore, it is well-settled that when no question of fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. Dominick A. Ricci, M.D., 58 FR at 51,104; see also Phillip E. Kirk, M.D., 48 FR 32,887 (1983), *aff'd* sub nom Kirk V. Mullen, 749 F.2d 297 (6th Cir. 1984); Alfred Tennyson Smurthwaite, M.D., 43 FR 11,873 (1978); *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers*, AFL-CIO, 549 F.2d 634 (9th Cir. 1977).

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 AY0018970, previously issued to Gerald Vangsgard, M.D., be, and it hereby is, revoked, and any pending application for renewal of such registration is hereby denied. This order is effective September 9, 1996.

Dated: July 31, 1996.  
 Stephen H. Greene,  
*Deputy Administrator.*  
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## DEPARTMENT OF LABOR

### Office of the Secretary; Submission for OMB Review; Comment Request

August 1, 1996.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219-5095). Individuals who use a

telecommunications device for the deaf (TTY/TDD) may call (202) 219-4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

- \* evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- \* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- \* enhance the quality, utility, and clarity of the information to be collected; and

- \* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Employment Standards Administration.

*Title:* FECA Medical Report Forms.

*OMB Number:* 1215-0103.

*Agency Number:* CA-7, CA-8, CA-16b, CA-17b, CA-20, CA-20a, CA-1090, CA-13-3, CA-1305, CA-1306, CA-1314, CA-1316, CA-1331, CA-1332, CA-1336, OWCP-5A, OWCP-5b, and OWCP-5c.

*Frequency:* As needed.

*Affected Public:* Individuals or households; Business or other for-profit; Federal Government.

Form	Total respondents	Responses	Response time per respondent (minutes)	Burden hours
CA-7 .....	200	200	20	67
CA-8 .....	200	200	5	17
CA-16B .....	157,000	157,000	5	13,083
CA-17B .....	134,000	134,000	5	11,167
CA-20 .....	92,000	92,000	5	7,667
CA-20a .....	20,000	20,000	5	1,667
CA-1090 .....	800	800	5	67
CA-1303 .....	4,000	4,000	20	1,333
CA-1305 .....	80	80	20	27
CA-1306 .....	25	25	10	4
CA-1314 .....	1,200	1,200	20	400
CA-1316 .....	1,100	1,100	10	183
CA-1331 .....	750	750	5	63
CA-1332 .....	1,500	1,500	30	750
CA-1336 .....	2,000	2,000	5	167
OWCP-5a .....	7,000	7,000	15	1,750
OWCP-5b .....	5,000	5,000	15	1,250
OWCP-5c .....	15,000	15,000	15	3,750
Totals .....	441,855	441,855	.....	43,412

*Total Annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* \$154,649.

*Description:* The information collected by these forms is used by claims examiners to determine eligibility for and the computation of benefits. The claim forms with supporting medical evidence are used to determine whether or not the claimant is entitled to compensation for disability for work or permanent impairment of a scheduled member; the appropriate period, rate of pay, compensation rate,

and any concurrent employment or dual benefits, and third-party credit. Without the requested information, an eligible beneficiary could be denied benefits, or benefits could be authorized at an incorrect rate, resulting in an underpayment or overpayment of compensation.

*Agency:* Mine Safety Health Administration.

*Title:* Quarterly Mine Employment and Coal Production Report.

*OMB Number:* 1219-0006.

*Agency Number:* 7000-2.

*Frequency:* Quarterly.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 83,594.

*Estimated Time Per Respondent:* 34 minutes.

*Total Burden Hours:* 46,680.

*Total Annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* \$27,000.

*Description:* Requires mine operators to report to MSHA quarterly employment levels and coal production. Employment and production data when correlated with accident and injury data provide information for making