

that, "[i]n preparing my response to the pending motion, it has become evident to me that I do not have certain documents." On April 30, 1997, the Government submitted its Response to Respondent's Request for a Stay, arguing that Respondent already has copies of all of the documents that make up the record in this proceeding, and that "neither the Administrative Procedures Act nor DEA regulations provide for Respondent's prehearing discovery or examination of DEA investigative materials." The Government requested that Respondent's request for a stay be denied. Thereafter, on May 1, 1997, Judge Randall issued her Memorandum and Order agreeing with the Government's position and denying Respondent's request for a stay of the proceedings. Respondent was given until May 9, 1997, to respond to the Government's Motion for Summary Disposition.

Subsequently, Respondent submitted its Opposition to Government's Motion for Summary Disposition dated May 10, 1997, arguing that "the issue of fact remains that the Respondent's licenses were NOT revoked in the States of Pennsylvania and New Jersey after recent hearings resulting from the New York revocation." Respondent contended that "[t]he government bears the burden of proof to address the status of the Respondent's medical licensure nationally and then apply the applicable DEA regulations and has failed to do so." Accordingly, Respondent requested that the Government's motion be denied.

On May 13, 1997, Judge Randall issued her Memorandum and Order denying the Government's Motion for Summary Disposition. Judge Randall found that there is no dispute that Respondent is not currently authorized to handle controlled substances in the State of New York. The Administrative Law Judge concluded that DEA does not have the statutory authority to maintain a registration, if the registrant is without authorization to handle controlled substances in the state in which he practices. However, Respondent does maintain state licensure in Pennsylvania and New Jersey, and there was nothing before the Administrative Law Judge that asserted the location on the DEA Certificate of Registration in dispute. Consequently, Judge Randall found that "there is a genuine issue of material fact, and this matter currently is not appropriate for summary disposition."

Judge Randall then issued an Order for Prehearing Statements, and on May 14, 1997, the Government filed its prehearing statement. Respondent was given until June 25, 1997, to file his

prehearing statement. In her Order for Prehearing Statements, the Administrative Law Judge cautioned Respondent "that failure to file timely a prehearing statement as directed above may be considered a waiver of hearing and an implied withdrawal of a request for hearing." On August 4, 1997, Judge Randall issued an Order indicating that she had not yet received a prehearing statement from Respondent; reminding Respondent that failure to timely file a prehearing statement may be deemed a waiver of hearing; and giving Respondent until August 20, 1997, to file such a statement along with a motion for late acceptance.

On August 27, 1997, the Administrative Law Judge issued an Order Terminating Proceedings, finding that Respondent has failed to file a prehearing statement, and therefore concluding that Respondent has waived his right to a hearing. Judge Randall noted that the record would be transmitted to the Acting Deputy Administrator for entry of a final order based upon the investigative file. Therefore, the Acting Deputy Administrator, finding that Respondent has waived his right to a hearing, hereby enters his final order without a hearing and based upon the investigative file, pursuant to 21 CFR 1301.43(e) and 1301.46.

The Acting Deputy Administrator finds that Respondent currently possesses DEA Certificate of Registration AP3110765 in Schedules II through V issued to him at an address in Staten Island, New York. One June 7, 1995, the Hearing Committee on the Board ordered the revocation of Respondent's license to practice medicine in the State of New York based upon a finding that Respondent practiced the medical profession while impaired by mental disability from approximately 1986 through 1994, and a finding that Respondent has a psychiatric condition which impairs his ability to practice the medical profession. In a Decision and Order effective September 18, 1995, the Board's Administrative Review Board sustained the Hearing Committee's findings and revocation of Respondent's New York medical license.

The Acting Deputy Administrator finds that in light of the fact that Respondent is not currently licensed to practice medicine in the State of New York, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state. Respondent does not dispute that he is not currently authorized to practice

medicine or handle controlled substances in the State of New York.

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 *Romeo J. Perez, M.D.* 62 Fed. Reg. 16,193 (1997); *Demetris A. Green, M.D.*, 61 Fed. Reg. 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104 (1993).

Here it is clear that Respondent is not currently authorized to handle controlled substances in the State of New York, the state where he is registered with DEA. Therefore, Respondent is not entitled to a DEA registration in that state.

Respondent has argued that he is licensed to practice medicine in Pennsylvania and New Jersey. However, the Acting Deputy Administrator concludes that the fact that Respondent is licensed to practice medicine in states other than New York is irrelevant since he is not authorized to practice in the state where he is registered with DEA and he has not sought to modify his current registration to another 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 AP3110765, previously issued to Vincent A. Piccone, 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 December 22, 1997.

Dated: November 13, 1997.

**James S. Milford,**

*Acting Deputy Administrator.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

**Bureau of International Labor Affairs,  
U.S. National Administrative Office:  
North American Agreement on Labor  
Cooperation; Notice of Determination  
Regarding Review of Submission  
#9702**

**AGENCY:** Office of the Secretary, Labor.

**ACTION:** Notice.

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**SUMMARY:** The U.S. National Administrative Office (NAO) gives notice that on November 17, 1997, Submission #9702 was accepted for review. The submission was filed with the NAO on October 30, 1997, by the Support Committee for Maquiladora Workers (SCMW), the International Labor Rights Fund (ILRF), the National Association of Democratic Lawyers of Mexico (ANAD), and the Union of Metal, Steel, Iron, and Allied Workers (Sindicato de Trabajadores de la Industria Metálica, Acero, Hierro, Conexos y Similares—STIMAHCS) of Mexico and raises issues of freedom of association involving workers at an export processing (maquiladora) plant.

Article 16(3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the NAO. The objectives of the review of the submission will be to gather information to assist the NAO to better understand and publicly report on the Government of Mexico's compliance with the obligations set forth in Articles 3 and 5 of the NAALC.

**EFFECTIVE DATE:** November 17, 1997.

**FOR FURTHER INFORMATION CONTACT:** Irasema T. Garza, Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, N.W., Room C-4327, Washington, D.C. 20210. Telephone: (202) 501-6653 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On October 30, 1997, SCMW, ILRF, ANAD and STIMAHCS filed a submission with the NAO concerning allegations involving freedom of association among workers at an export processing (maquiladora) plant. The submission contains information alleging that workers at the Han Young maquiladora plant in Tijuana, Baja California, Mexico, were harassed and intimidated because of their support for an independent union. It is also alleged that several union supporters were fired and one was physically attacked by the plant manager. Finally, the submission alleges that the local Conciliation and Arbitration Board (CAB) failed to enforce the appropriate provisions of the Mexican labor law.

The submission maintains that Mexico is in violation of NAALC Article 5(4) in failing to ensure that its labor tribunal proceedings are impartial and independent and do not have a substantial interest in the outcome of the matter; Article 5(1) in failing to ensure that such proceedings are fair, equitable and transparent; Article 5(1)(d) in failing to ensure that such

proceedings are not unnecessarily complicated and do not entail unwarranted delays; Article 5(2)(b) in failing to ensure that final decisions in labor proceedings are made available without undue delay; and 3(1)(g) in failing to enforce its labor laws protecting workers' rights through appropriate actions.

The submission asserts that Mexico has failed to enforce its labor laws regarding freedom of association, occupational safety and health, wages, payment of wages, seniority, and profit sharing as well as the Mexican Constitution which guarantees freedom of association. Finally, the submission alleges that Mexico is in violation of Convention 87 of the International Labor Organization (ILO) on freedom of association, which Mexico has ratified, and ILO Convention 98 on freedom of association and collective bargaining, which Mexico has not ratified but is nevertheless bound by as a member of the ILO.

Article 16(3) of the NAALC provides for the review of labor law matters in Canada and Mexico by the NAO.

The procedural guidelines for the NAO, published in the **Federal Register** on April 7, 1994, 59 Fed. Reg. 16660, specify that, in general, the Secretary of the NAO shall accept a submission for review if it raises issues relevant to labor law matters in Canada or Mexico and if a review would further the objectives of the NAALC.

Submission #9702 relates to labor law matters in Mexico. A review would appear to further the objectives of the NAALC, as set out in Article 1 of the NAALC, among them freedom of association; promoting compliance with and effective enforcement by each Party of, its labor law; and fostering transparency in the administration of labor law. Accordingly, this submission has been accepted for review of the allegations raised therein. The NAO's decision is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission.

The objectives of the review will be to gather information to assist the NAO to better understand and publicly report on the right to organize and freedom of association raised in the submission, including the Government of Mexico's compliance with the obligations agreed to under Articles 3 and 5 of the NAALC. The review will be completed, and a public report issued, within 120 days, or 180 days if circumstances require an extension of time, as set out in the procedural guidelines of the NAO.

Signed at Washington, D.C. on November 17, 1997.

**Lewis Karesh,**

*Deputy Secretary, U.S. National Administrative Office.*

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## NATIONAL COUNCIL ON DISABILITY

### Privacy Act; System of Records.

**AGENCY:** National Council on Disability.

**ACTION:** Notice of request for comments.

**SUMMARY:** In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), the National Council on Disability is issuing notice of our intent to amend the system of records entitled the National Payroll Center to include a new routine use. The disclosure is required by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, Pub. L. 104-193). We invite public comment on this publication.

**DATES:** Persons wishing to comment on the proposed routine use must do so by December 10, 1997.

**ADDRESSES:** Interested individuals may comment on this publication by writing to the National Council on Disability, 1331 F Street, NW, Suite 1050, Washington, DC 20004; 202-272-2022 (fax); ebriggs@ncd.gov (e-mail). All comments received will be available for public inspection at that address.

**FOR FURTHER INFORMATION CONTACT:** Ethel D. Briggs, Executive Director, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, D.C. 20004-1107; 202-272-2004 (Voice); 202-272-2074 (TTY); 202-272-2022 (Fax); ebriggs@ncd.gov (e-mail).

**SUPPLEMENTARY INFORMATION:** Pursuant to Public Law 104-93, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the National Council on Disability will disclose data from its National Payroll Center system of records to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for use in the National Database of New Hires, part of the Federal Parent Locator Service (FPLS) and Federal Tax Offset System, DHHS/OSCE No. 09-90-0074. A description of the Federal Parent Locator Service may be found at 62 FR 51663 (October 2, 1997).

FPLS is a computerized network through which States may request location information from Federal and State agencies to find non-custodial parents and their employers for purposes of establishing paternity and