

acknowledged this information, yet failed to exercise proper care in his future prescribing. In addition, while it is true that Respondent was acquitted of all criminal charges, a conviction is not a necessary prerequisite for denial. Careless or negligent handling of controlled substances creates the opportunity for diversion and could justify revocation or denial. As Respondent's counsel noted in his closing argument at Respondent's second criminal trial:

* * * because if Dr. Tran didn't notice what he should have noticed, that is not a crime. That may be bad doctoring. That may be carelessness. That may be a reason perhaps why someone shouldn't be a doctor * * *."

The Acting Deputy Administrator concludes that Respondent's careless and indiscriminate prescribing of controlled substances warrant the denial of his application for registration.

Also in his exceptions, Respondent contends that "this procedure has been a learning experience. I now realize the importance of maintaining detailed medical records on each patient * * * [and] I am a more enlightened man when it comes to prescribing controlled substances for a legitimate medical purpose *only*." Respondent says that he will only prescribe for a legitimate medical purpose and that he is a "changed man," but he does not acknowledge that he prescribed improperly. Therefore, the Acting Deputy Administrator is not confident that Respondent recognizes what needs changing in his handling of controlled substances. There is no evidence in the record how Respondent has changed or that he has attempted to better educate himself in the proper handling of controlled substances. As a result, the Acting Deputy Administrator does not believe that it is in the public interest for Respondent to be issued a registration at this time.

Finally, in his exceptions and during the hearing in this matter, Respondent indicated that if he is issued a DEA registration, he will refrain from dispensing controlled substances "because it not only get me in trouble, it doesn't do anything to me." According to Respondent without a DEA registration he cannot get hospital privileges, he is not accepted as a provider by insurance companies, pharmacies will not fill his non-controlled prescriptions, and pharmaceutical representatives refuse to give him samples of non-controlled substances. While Respondent's predicament is unfortunate, it does not justify granting him a DEA registration.

Practitioners are issued DEA registrations so that they can responsibly handle controlled substances, not so that they can obtain hospital privileges. In light of Respondent's failure to acknowledge any wrongdoing, the lack of any details as to how he has changed, and the absence of any recent training in the proper handling of controlled substances, the Acting Deputy Administrator concludes that it would be inconsistent with the public interest to grant Respondent's application for a DEA Certificate of Registration at this time.

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 Cuong Trong Tran, M.D., be, and it hereby is, denied. This order is effective December 21, 1998.

Dated: November 13, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1889-97]

Imposition of Fines Under Section 231 of the Immigration and Nationality Act

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice serves to clarify the Immigration and Naturalization Service (Service) policy involving the imposition of fines under section 231 of the Immigration and Nationality Act (Act). The Service will, in the future publicize criteria and implement procedures that will impose fines for violations of section 231(a) and (b), of the Act, in a more comprehensive manner. However, fines will not be imposed until the Service has notified the carriers of procedures and criteria that will be used in this process.

DATES: This notice is effective November 19, 1998.

FOR FURTHER INFORMATION CONTACT: Una Brien, National Fines Office, Immigration and Naturalization Service, 1400 Wilson Blvd., Suite 210, Washington, DC 22209, telephone (202) 305-7018.

SUPPLEMENTARY INFORMATION: This notice announces the Service's plans to adopt new procedures to impose fine liability under section 231(a) and (b) of the act. Specifically the Service intends to begin to fine carriers for violations in accordance with procedures in section 231(a) and expand fine liability under 231(b) of the Act in accordance with procedures and criteria that are being developed. The Service will inform carriers of the procedures and criteria under which such fines may be levied via further publication in the **Federal Register**. These fines will not be imposed until the Service has informed the interested parties through publication in the **Federal Register** of the procedures and criteria. When these procedures and criteria are published as a notice of proposed rulemaking, carriers and others will have an opportunity for comment.

The collection of arrival and departure information for airport and seaport activity is addressed in section 231 of the Act and expanded upon in 8 CFR part 231. This section delineates the transportation company's responsibility to provide manifests for arriving and departing passengers.

Presently, the Service only imposes fines for violations of section 231(b) of the act, with respect to the proper submission of departure manifests, Form I-94T. The Service plans to expand the imposition of section 231(a) and (b) fines for failure to present properly completed arrival and departure manifests, as required on Form I-94, Arrival-Departure Record; Form I-94T, Arrival-Departure Record (Transit Without Visa); and Form I-94W, Visa Waiver Nonimmigrant Arrival/Departure Document.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) Pub. L. 104-208, 110 Stat. 3009 (Sept. 30, 1996) requires the Service to develop an automated entry and exit control system that will collect a record of departure for every alien departing the United States and match these records of departure with the record of the alien's arrival in the United States. This will enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the authorized period of stay. Forms I-94 are used to record the arrival and departure of nonimmigrant aliens into and from the United States. Imposing fines under section 231 of the Act will encourage air and sea carriers to comply with regulations concerning the proper submission of Form I-94, I-94T, and I-94W.

The Service has defined the Form I-94 as the document which meets the manifest requirements. 8 CFR 231.1(a) The Form I-94 information is maintained in the Nonimmigrant Information System (NIIS). The reliability and timeliness of the information contained within NIIS has been a matter of concern and has been questioned by the General Accounting Office, the Department of Justice, Office of the Inspector General (OIG), and internally by the Service. At present, the Service is reviewing NIIS to identify problems and develop solutions for its deficiencies. In a recent OIG inspection report on overstays (Report Number I-97-08) the OIG stated that the Service needs to improve its departure data, particularly the collection of departure Forms I-94. "Given the long-standing failure to receive all departure records, INS should take immediate action to improve collection of these forms.

* * *

Implementing a more comprehensive program to impose section 231 fines will be part of a multi-pronged approach (which includes training carriers and Service personnel on proper I-94 processing procedures and monitoring compliance) to improve data collection as required by Congress and the OIG.

Dated: November 10, 1998.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

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DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request Revision of a Currently Approved Collection

ACTION: Notice of Information Collection; Revision of a Currently Approved Collection; Arrestee Drug Abuse Monitoring (ADAM, formerly Drug Use Forecasting) Program.

The Department of Justice, Office of Justice Programs, has submitted the information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until January 19, 1999.

Written comments and suggestions from the public and affected agencies

concerning the collection of information should address one or more of the following four points:

- (1) 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 any practical utility;
- (2) 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;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of 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.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Arrestee Drug Abuse Monitoring (ADAM, formerly Drug Use Forecasting) Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Office of Research and Evaluation, National Institute of Justice, Office of Justice Programs.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Misdemeanor and felony arrestees in city and county jails and juvenile detention facilities. The ADAM program monitors the extent and types of drug use among arrestees. Currently the program operates in 35 cities. An additional 15 sites are proposed for establishment by the end of 1999, to bring the total to 50 cities, and 25 additional cities by the end of the year 2000, which will bring the total number of cities to 75. Data are collected in each city every three months from a new sample of arrestees. Participation is voluntary and anonymous and data collected include a personal interview and urine specimen.

In the next 6 months, OJP proposes to introduce new features to the program, the primary being:

- A redesigned data collection instrument
- A sample selection process to replace the current process

Implementation of these features will require special field testing in the current ADAM sites.

(5) *An estimate of the total number of respondents and amount of time estimated for an average respondent to respond:* Following is the maximum number of responses expected for the main ADAM questionnaire in Fiscal Year 1999 and 2000. The estimate assumes that 50 sites are in operation all quarters of FY 1999 and 75 sites are in operation all quarters of FY 2000. In FY 1999, 50000 adult male arrestees, 20000 adult female arrestees, 20000 juvenile male arrestees, and 10000 juvenile female arrestees will be interviewed (total = 100,000 at 20 minutes a response). In FY 2000, 75000 adult male arrestees, 30000 adult female arrestees, 30000 juvenile male arrestees, and 15000 juvenile female arrestees will be interviewed (total = 150,000 at 20 minutes a response). Additionally, addendum questionnaires will be administered to the same respondents at some number of sites for some number of quarters over the year. The estimate provided here is the maximum number of responses that will be obtained: it is assumed that all sites will field an addendum questionnaire in 3 out of the 4 quarters of the year. In FY 1999, the number of addendum questionnaires administered across all respondent types will be 300,000 at 10 minutes per response; and in FY 2000 the number of addendum questionnaires administered will be 450,000 at 10 minutes a response.

(6) An estimate of the total public burden (in hours) associated with the collection: 83,000 hours in FY 1999 and 125,000 hours in FY 2000.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Dr. K. Jack Riley 202-616-9030, Director, Arrestee Drug Abuse Monitoring (ADAM) Program, National Institute of Justice, room 7344, 810 7th Street NW, Washington, DC 20531. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Dr. K. Jack Riley.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.