

limited. Five other defendants in this action are performing work pursuant to a consent decree entered by the Court on June 21, 1994, designed to address conditions at the Site which may present an imminent and substantial endangerment to health or the environment.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed stipulation of settlement. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States v. Dale Valentine, et al.*, DOJ Ref. #90-7-1-692. In accordance with Section 7003(d) of RCRA, commenters can also request a public meeting in the affected area.

The proposed stipulation may be examined at the Office of the United States Attorney for the District of Wyoming, 3rd Floor, Federal Building, 111 South Wolcott, Casper, Wyoming 82601; the United States Environmental Protection Agency, Region 8, 999 18th Street—Suite 500, Denver, Colo. 80202-2466; and at the Consent Decree Library, 1120 "G" Street NW., 4th Floor, Washington, D.C. 20005, (202) 624-0892. A copy of the proposed stipulation may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of \$1.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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Drug Enforcement Administration

[Docket No. 93-74]

Richard C. Matzkin, M.D. Grant of Continued Registration

On July 27, 1993, the Deputy Assistant Administrator (then-Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Richard C. Matzkin, M.D. of Bethesda, Maryland (Respondent), proposing to revoke his DEA Certificate of Registration, AM2532631, and deny any pending applications for such

registration. The statutory basis for the Order to Show Cause was that Respondent's continued registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held in Arlington, Virginia on March 14, 1994.

On November 3, 1994, the administrative law judge issued her opinion and recommended ruling, findings of fact, conclusions of law and decision, recommending that Respondent's DEA Certificate of Registration not be revoked subject to his compliance with several requirements. No exceptions to Judge Bittner's decision were filed by either party.

On December 6, 1994, the administrative law judge transmitted the record of the proceeding to the Deputy Administrator. After careful consideration of the record in its entirety, the Deputy Administrator enters his final order in this matter, in accordance with 21 CFR 1316.67, based on findings of fact and conclusions of law as set forth herein.

The administrative law judge found that Respondent obtained a license to practice medicine in Maryland in 1984 and maintained a practice in Bethesda. Respondent subsequently became licensed in Virginia and the District of Columbia. In the summer of 1989, Respondent began a general practice in Virginia, but continued to maintain a practice in Bethesda which, by Respondent's testimony, was limited to treating members of his immediate family and three close friends.

The administrative law judge found that, in 1986, a detective from the Pharmaceutical Unit of the Montgomery County, Maryland, Police Department was informed by several pharmacists that they had received prescriptions written by Respondent which they felt were not within a legitimate prescribing pattern, and that most of the prescriptions were for Percocet, a Schedule II controlled substance. The detective further testified that he found approximately 50 prescriptions for Percocet issued by Respondent at various area pharmacies, and that most of these prescriptions had been issued for five individuals, several of whom had been targets of prior investigations and/or had been arrested on drug charges.

The administrative law judge further found that a former investigator for the Virginia Department of Health (the Virginia investigator) investigated a complaint that Respondent was prescribing controlled substances to persons living outside of the state. The investigator found that most of these prescriptions were written for Percocet and that they had been written for Respondent's father, brother and then-wife, as well as two of the individuals identified by the Montgomery County, Maryland investigation.

The Virginia investigator testified that Respondent had prescribed controlled substances, primarily Percocet, to a number of individuals without a legitimate medical need and without conducting medical examinations prior to issuing controlled substances prescriptions. In one such instance, Respondent prescribed controlled substances to an individual who he knew to be drug and alcohol dependent.

The Virginia investigator further testified that several of the pharmacists who filled Respondent's prescriptions had complained that he often picked up the filled prescriptions for his out-of-state patients, and subsequently mailed the drugs to these patients. The Virginia investigator acknowledged that this practice was not unlawful.

The Virginia investigator also interviewed Respondent who informed her that he did not perform physical examinations on these patients prior to issuing prescriptions for them, and that his mother had disposed of the medical records that he had maintained on these patients. She further testified that, although Respondent had stated that all of the people who received the prescriptions at issue had complained of some type of pain or medical condition, Respondent's conduct was in violation of Virginia law because he did not maintain medical records for these patients, nor conduct physical examinations prior to prescribing controlled substances.

The administrative law judge found that on March 29, 1991, the Virginia Board of Medicine notified Respondent that it would conduct an informal conference on allegations that he had violated provisions of Virginia law pertaining to the practice of medicine. On June 21, 1991, Respondent entered into a consent order pursuant to which he voluntarily surrendered his Virginia license in lieu of further administrative proceedings.

The administrative law judge further found that, on January 20, 1992, the Montgomery County state's attorney office executed information charging Respondent with two counts of