

Finally, the Deputy Administrator agrees with Judge Tenney's finding as to the relevancy of the Respondent's testimony before him concerning the cocaine incident and factor five, "other conduct which may threaten the public health or safety." Specifically, the Deputy Administrator finds that the Respondent's lack of candor in his 1994 testimony as to the full extent of his involvement in the cocaine incident creates concern about his future conduct. The record discloses that the Respondent was quite involved in the cocaine distribution and conspiracy, as evidenced by the stipulated testimony of the undercover Agent involved first-hand in the incident, and by the fact that the Respondent pled guilty to the charges of conspiracy to distribute cocaine and unlawfully distributing cocaine. His failure to take responsibility for his past misconduct causes concern about his commitment to protecting the "public health and safety" in the future, should he be granted a DEA Certificate of Registration.

However, the Government's establishment of its case does not end the inquiry, for the Respondent has submitted extensive evidence of his rehabilitative efforts. The issue then becomes whether the Respondent has offered sufficient proof of rehabilitation to mitigate the egregious conduct established by the Government, such that the DEA can now find that granting the Respondent's application for a Certificate of Registration would be consistent with the "public interest." See *Shatz v. United States Dept. of Justice*, 873 F.2d 1089, 1091 (8th Cir. 1989) (holding that, in a case such as this, the Respondent has the burden to prove rehabilitation).

Again, the Deputy Administrator agrees with Judge Tenny's findings as to the weight to be given the Respondent's rehabilitative evidence, for the Respondent's evidence concerning his rehabilitative efforts, to include his commitment to performing good deeds through a variety of Christian ministries, was credible. However, the Respondent's November 1994 testimony concerning his conduct surrounding the May 1, 1986, cocaine transaction was indeed troubling, for despite the plea and conviction, the Respondent continued to minimize his involvement and resulting responsibility for the conspiracy and cocaine distribution incidents. As Judge Tenny noted, "the Respondent's inability to be completely candid at the hearing causes sufficient doubt as to whether he is fully rehabilitated." Further, the Deputy Administrator also notes the lack of

evidence of continuing education relevant to controlled substances, evidence which would have been helpful in light of the Respondent's experience in prescribing Didrex without understanding its characteristics.

Therefore, the preponderance of the evidence supports denial of the Respondent's application at this time. If the Respondent reapplies and submits evidence of his continuing rehabilitative efforts, such as evidence of completion of educational courses at least partially focused upon the handling of controlled substances, then his application may receive more favorable consideration. See, e.g., *Shatz*, 873 F.2d at 1092 (suggesting that "careful consideration" be given to any future application for registration, and in particular, to "any additional evidence in support of [a] claim of rehabilitation"); *Sokoloff v. Saxbe*, 501 F.2d 571, 576 (2d Cir. 1974) (stating that "permanent revocation" of a DEA Certificate of Registration may be "unduly harsh").

Therefore, the Deputy Administrator finds that the public interest is best served by denying the Respondent's application at this time. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823, and 21 C.F.R. 0.100(b) and 0.104, hereby orders that the Respondent's application for a DEA Certificate of Registration be, and it hereby is, denied. This order is effective January 8, 1996.

Dated: November 30, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95-29771 Filed 12-6-95; 8:45 am]

BILLING CODE 4410-09-M

#### [Docket No. 93-39]

#### William F. Skinner, M.D., Continuation of Registration

On April 5, 1993, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William F. Skinner, M.D., (Respondent) of Santa Monica, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AS7287534, under 21 U.S.C. 824(a)(4), and deny any pending applications under 823(f), as being inconsistent with the public interest. Specifically, the Order to Show Cause alleged that:

(1) During the period April 1987 through November 1988, the

Respondent prescribed, administered, and dispensed excessive amounts of controlled substances to a single patient, including Demerol, Dilaudid, Xanax, Ativan, Percodan, Tylenol with Codeine, Valium, Percocet, Methadone, and Doriden, without a legitimate medical purpose and while not acting in the usual course of professional practice; and

(2) During the same time period, the Respondent prescribed narcotic drugs to the same narcotic dependent patient for the purpose of maintenance treatment, and engaged in detoxification treatment of the patient without holding a separate DEA registration to conduct a narcotic treatment program.

On April 27, 1993, the Respondent, through counsel, filed a timely request for a hearing. On February 23, 1994, the case was consolidated for hearing with *Michael S. Gottlieb, M.D.*, Docket No. 93-53, and *Michael J. Roth, M.D.*, Docket No. 94-10. Following prehearing procedures, a hearing was held in Los Angeles, California, on March 29-30 and May 10-12, 1994, before Administrative Law Judge Paul A. Tenney. At the hearing, both parties called witnesses to testify and introduced documentary evidence, and after the hearing, counsel for both sides submitted proposed findings of fact, conclusions of law and argument. On October 17, 1994, Judge Tenney issued his Findings of Fact, Conclusions of Law, and Recommended Ruling, finding that Respondent's registration was not inconsistent with the public interest, and recommending that no action be taken against Respondent, Dr. Skinner. On November 8, 1994, the Government filed exceptions to Judge Tenney's opinion, and on December 7, 1994, the Respondent filed his response to the Government's exceptions. On December 12, 1994, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the filings of the parties and the record in its entirety, and pursuant to 21 C.F.R. 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 opinion and recommended ruling of Judge Tenney, 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.

The Deputy Administrator finds that the Respondent is licensed to practice as a physician in the State of California, and that he had served as the medical director of the St. John's Hospital Chemical Dependency Center from 1981