

Drug	Schedule
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Meperidine intermediate-A (9232)	II
Meperidine intermediate-B (9233)	II
Meperidine intermediate-C (9234)	II
Metazocine (9240)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Metopon (9260)	II
Morphine (9300)	II
Thebaine (9333)	II
Dihydroetorphine (9334)	II
Opium, raw (9600)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Levo-alphaacetyl-methadol (9648)	II
Oxymorphone (9652)	II
Phenazocine (9715)	II
Piminodine (9730)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II
Alfentanil (9737)	II
Remifentanil (9739)	II
Sufentanil (9740)	II
Carfentanil (9743)	II
Bezitrarnide (9800)	II
Fentanyl (9801)	II
Moramide-intermediate (9802)	II

The company plans to manufacture small quantities of bulk material for use in reference standards.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Accustandard Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Accustandard Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: September 16, 2004

William J. Walker,

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

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Gilbert C. Aragon, Jr., D.O.; Revocation of Registration

On January 5, 2004, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Gilbert C. Aragon, Jr., D.O. (Dr. Aragon) notifying him of an opportunity to show cause as to why DEA should not revoke his Certificate of Registration, BA4652714, and deny any pending applications for renewal or modification of such registration, pursuant to 21 U.S.C. 824(a)(2) and (3), 21 U.S.C. 823(f). Specifically, the Order to Show Cause alleged in relevant part, the following:

1. Effective May 17, 2002, the Texas State Board of Medical Examiners (Board) suspended Dr. Aragon's state medical license. The suspension was based upon an Agreed Order documenting Dr. Aragon's arrest by Dallas Police on November 20, 2000, for driving while intoxicated and possession of dangerous and controlled substances. After a plea agreement with local authorities, Dr. Aragon pled guilty to the charge of driving while intoxicated. Court documents also revealed that Dr. Aragon also admitted

guilt to the offense of illegal drug possession, but the matter was not adjudicated. On June 8, 2001, Dr. Aragon was sentenced to 150 days in jail, which was probated for two years, and ordered to pay a \$2,000 fine. The Board's suspension was further premised on Dr. Aragon's admission to police of having written fictitious prescriptions in the names of family members in order to assist his wife (who was addicted to drugs) illegally obtain hydrocodone. As a result of the actions taken by the Board, Dr. Aragon is currently without authority to handle controlled substances in Texas, the State in which he is registered with DEA.

2. On November 30, 2000, May 12, 2001, and November 27, 2001, Dr. Aragon answered "no" to questions on his Medical Practice Questionnaire and Annual Registration Renewal forms inquiring if he had been arrested, charged or convicted of a crime or placed on probation.

3. After being indicted by a Dallas County Grand Jury on January 22, 2003, Dr. Aragon appeared before the 203rd Judicial District Court of Dallas County, Texas, and pled guilty to the third degree felony of "[u]nlawfully obtaining from a legally registered pharmacist, a controlled substance, to-wit: dihydrocodeinone, by the use of false or forged prescription on October 15,

2001.” The court imposed a ten year penitentiary sentence, five years community supervision as well as a \$4,000 fine and a fifteen day jail sentence as a condition of community supervision. In response to these matters, on September 25, 2003, the Board Staff filed a Complaint requesting a hearing on its merits and requesting that Dr. Aragon’s medical license be suspended or revoked.

4. Dr. Aragon’s state medical license has been delinquent for non-payment since December 30, 2002, and his Texas Department of Public Safety Controlled Substances Registration expired on January 31, 2003, and has not been renewed.

The Order to Show Cause was initially sent by certified mail to Dr. Aragon at his registered location in Irving, Texas; however, the order was returned to DEA by the United States Postal Service with a stamped notation: “attempted, not known.” On February 6, 2004, DEA mailed copies of the Order to Show Cause to Dr. Aragon at a residential location in Las Vegas, New Mexico, with an additional copy sent to a purported work address in Santa Rosa, New Mexico. The order sent to the purported work address was returned unclaimed, but the second order sent to the residential location was accepted on behalf of Dr. Aragon on February 9, 2004. DEA has not received a request for hearing or any other reply from Dr. Aragon or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator of DEA, finding that (1) thirty days having passed since the delivery of the Order to Show Cause to the registrant’s address of record, as well as to a second address, and (2) no request for hearing having been received, concludes that Dr. Aragon is deemed to have waived his hearing right. See *David W. Linder*, 67 FR 12579 (2002). After considering material from the investigative file in this matter, the Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Aragon is currently registered with DEA as a practitioner. According to information in the investigative file, on or about May 15, 2002, Dr. Aragon entered into an Agreed Order with the Texas State Board of Medical Examiners (Board). Dr. Aragon and the Board agreed, *inter alia*, that Dr. Aragon’s state medical license be suspended until he completed various terms and conditions for reinstatement, including the completion of a 96-hour inpatient evaluation, conducted by or under the direction of a psychiatrist to evaluate

Dr. Aragon for substance abuse or an organic mental condition. The Agreed Order resulted from findings by the Board that on November 20, 2000, Dr. Aragon was arrested by the Dallas (Texas) Police and charged with driving while intoxicated (DWI).

In addition, the Board found that Dr. Aragon was charged with illegal possession of dangerous and controlled substances. The Agreed Order also referenced Dr. Aragon’s subsequent plea agreement with the Dallas District Attorney’s Office, where he plead guilty and was convicted of the DWI offense. The Agreed Order further referenced Dr. Aragon’s admission of guilt to “the unadjudicated [sic] offenses of illegal drug possession, and his subsequent sentencing on June 8, 2001 to “150 days in jail probated for two years and a \$2,000.00 fine.” The Board made additional findings regarding Dr. Aragon’s writing of fictitious prescriptions in the names of family members and leaving blank prescriptions for the use of his physician assistants when he was not in the office.

Information in the investigative file also shows Dr. Aragon’s state medical license has been delinquent for non-payment since December 30, 2002, and his Texas Department of Public Safety Controlled Substances Registration expired on January 31, 2003, and has not been renewed.

There is no evidence before the Deputy Administrator that Dr. Aragon has satisfied the conditions of the Board for reinstatement of his medical license, or that the Board suspension order has been stayed or lifted. Moreover, there is no evidence in the investigative file that Dr. Aragon’s state controlled substance privileges have been renewed, or otherwise reinstated.

Pursuant to 21 U.S.C. 824(a), the Deputy Administrator may revoke a DEA Certificate of Registration if she finds that the registrant has had his state license revoked and is no longer authorized to dispense controlled substances or has committed such acts as would render his registration contrary to the public interest as determined by factors listed in 21 U.S.C. 823(f). *Thomas B. Pilkowski, D.D.S.*, 57 FR 28538 (1992). Nevertheless, despite findings of the Board regarding Dr. Aragon’s inappropriate conduct with respect to use of alcohol and his unlawful possession of dangerous and controlled substances, and notwithstanding the other public interest factors for the revocation of his DEA registration asserted herein, the more relevant consideration here is the present status of Dr. Aragon’s state

authorization to handle controlled substances.

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 business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Rory Patrick Doyle, M.D.*, 69 FR 11655 (2004); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

Here, it is clear that Dr. Aragon’s Texas medical license has been suspended, his state controlled substance registration has expired, and as a result, he is currently not licensed under Texas law to handle these products. Therefore, he is not entitled to a DEA registration in that state. As a result of a finding that Dr. Aragon lacks state authorization to handle controlled substances, the Deputy Administrator concludes that it is unnecessary to address further whether his DEA registration should be revoked based upon the public interest grounds asserted in the Order to Show Cause. See *Samuel Silas Jackson, D.D.S.*, 67 FR 65145 (2002); *Nathaniel-Aikens-Afful, M.D.*, 62 FR 16871 (1997); *Sam F. Moore, D.V.M.* 58 FR 14428 (1993).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BA4652714, issued to Gilbert C. Aragon, Jr., D.O., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective November 1, 2004.

Dated: September 8, 2004.

Michele M. Leonhart,
Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Rodolfo D. Bernal, M.D.; Revocation of Registration

On December 8, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Rodolfo D. Bernal, M.D. (Dr. Bernal), proposing to revoke