as a manufacture of marijuana for human consumption. Such use of a DEA registration is not in conformity with provisions of the Controlled Substances Act. As noted above marijuana is listed in Schedule I of the Controlled Substances Act (CSA). 21 U.S.C. 812(c); 21 CFR 1303.11. The CSA defines Schedule I controlled substances as those drugs or other substances that have ''a high potential for abuse,'' ''no current accepted medical use in treatment in the United States,'' and ''a lack of accepted safety for use * * * under medical supervision.'' Also, every drug listed in Schedule I of the CSA lacks approval for marketing under the Federal Food Drug and Cosmetic Act (FDCA). Therefore, the Food and Drug Administration (FDA) has not approved marijuana for marketing as a drug.

The deleterious effects of marijuana use have been outlined extensively in previous DEA final orders and will not be repeated at length here. Marion ''Molly'' Fry, M.D. at 79015. *See also,* 66 FR 20038 (2001) 57 FR 10499 (1992). However, it bears mentioning again that the numerous significant short-term side effects and long term risks linked to smoking marijuana, include damage to brain cells; lung problems such as bronchitis and emphysema; a weakening of the body's antibacterial defenses in the lungs; the lowering of blood pressure; trouble with thinking and concentration; fatigue; sleepiness and the impairment of motors skills. *Id.*

Marijuana was placed in Schedule I for the same fundamental reason that it has never been approved for sale by the FDA; there have never been any sound scientific studies which demonstrate that marijuana can be used safely and effectively as medicine. See 66 FR 20038 (April 18, 2001) (DEA final order denying petition to initiate proceedings to reschedule marijuana). The Supreme Court recently explained the legal significance of marijuana's placement in Schedule I of the CSA:

> Whereas some other drugs (those in Schedules II through V) can be dispensed and prescribed for medical use, *see* 21 U.S.C. 829, the same is not true for marijuana. Indeed, the purposes of the Controlled Substances Act, marijuana has ''no currently accepted medical use'' at all.

United States v. Oakland Cannabis Buyers' Cooperative, 532 U.S. 482, 491 (2001).

Federal law prohibits human consumption of marijuana outside of FDS-approved, DEA registered research. *Id.* at 490 (''For marijuana (and other drugs that have been classified as 'schedule I' controlled substances), there is but one express exception, and it is available only for Government approved research projects, section 823(f).''). *Id.* at 495 n.7.

In light of the Respondent's pending DEA application which by law cannot be granted, the Deputy Administrator concurs with Judge Bittner that there are no material disputed facts in this matter. Accordingly, the Government's motion for summary disposition was properly entertained and granted. It is well settled that when no question of material fact is involved, or when the material facts are agreed upon, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. The rationale is that Congress does not intend administrative agencies to perform meaningless tasks. See Gilbert Ross, M.D., 61 FR 8664 (1996); Philip E. Kirk, M.D., 48 FR 32,887 (1983), *aff'd sub nom Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers,* AFL–CIO, 549 F.2d 634 (9th Cir. 1977). For the above-stated reasons, the application of Respondent must be denied.

Accordingly, the 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 the application for a DEA Certificate of Registration submitted by the Church of the Living Tree, be, and it hereby is, denied. This order is effective April 9, 2003.

Dated: March 26, 2003.

John B. Brown, III,

Deputy Administrator.

[FR Doc. 03–8590 Filed 4–8–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 13, 2002, Dade Behring Inc., Route 896 Corporate Boulevard, Building 100, Attn: RA/QA, P.O. Box 6101, Newark, Delaware, 19714, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Ecogonine (9180)	II
Morphine (9300)	II

The firm plans to produce bulk products used for the manufacture or reagents and drug calibrator/controls, DEA exempt products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: Drug Operations Section, Domestic Drug Unit (ODOD) and must be filed no later than 60 days from publication.

Dated: March 21, 2003.

Laura M. Nagel,

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

[FR Doc. 03–8581 Filed 4–8–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 20, 2002, Syva Company, Dade Behring Inc., Regulatory Affairs Department E1–310, 20400 Mariana Avenue, Cupertino, California, 95014, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Ecogonine (9180)	II
Morphine (9300)	II

The firm plans to produce bulk products used for the manufacture of reagents and drug calibrator/controls, DEA exempt products.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug

Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: Drug Operations Section, Domestic Drug Unit (ODOD) and must be filed no later than 60 days from publication.

Dated: March 21, 2003.

Laura M. Nagel,

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

[FR Doc. 03–8584 Filed 4–8–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

James E. Harris, P.A.; Revocation of Registration

On November 19, 2002, the Deputy Assistant Administrator, office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to James Harris, P.A. (Mr. Harris) of Henderson, Nevada, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, MH0604846, as a physician's assistant under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of that registration, pursuant to 21 U.S.C. 823(f) for reason that Mr. Harris is not authorized to handle controlled substances in the State of Nevada. The order also notified Mr. Harris that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Mr. Harris at a residential location in Henderson, Nevada and DEA received a signed receipt indicating that it was received on December 5, 2002. DEA has not received a request for hearing or any other reply from Mr. Harris or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Mr. Harris is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator new enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that on March 13, 2002, the Nevada State Board of Medical Examiners (the Board) issued Findings of Fact, Conclusions of Law and Order in response to a complaint filed against the physician assistant license of Mr. Harris. The Board found *inter alia,* that Mr. Harris while working as a physician assistant at his place of work was tested, with a positive result for controlled substances. The Board also found that Mr. Harris' use of controlled substances impaired his ability to practice medicine and endangered the health, safety and welfare of his patients. As a result of its findings, the Board ordered the revocation of Mr. Harris' physician assistant license to practice medicine in the State of Nevada.

There is no evidence in this investigative file that the Board's revocation order has been stayed or lifted, nor is there evidence that Mr. Harris' physician assistant license to practice medicine in the State of Nevada has been reinstated. Therefore, the Deputy Administrator finds that since Mr. Harris is not currently authorized to practice medicine in Nevada, it is reasonable to infer that he is not authorized to handle controlled substances in that state.

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* Joseph Thomas Allevi, M.D., 67 FR 35581 (2002); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Mr. Harris is not licensed to handle controlled substances in Nevada, where he is registered with DEA. Therefore, he is not entitled to maintain that registration.

Accordingly, the 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, MH0604846, issued to James E. Harris, P.A., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective May 9, 2003.

Dated: March 26, 2003.

John B. Brown III,

Deputy Administrator.

[FR Doc. 03–8589 Filed 4–8–03; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 02–27]

Island Wholesale, Inc., Denial of Application

On October 5, 2001, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Island Wholesale, Incorporated (Respondent), proposing to deny its application, executed on March 31, 2000, for DEA Certificate of Registration as a distributor of the list I chemicals ephedrine and pseudoephedrine. The Order to Show Cause alleged that granting the Respondent's application would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(h).

The Order to Show Cause was delivered to the Respondent by certified mail, and the Respondent timely requested a hearing. However, after the matter was docketed before Administrative Law Judge Gail A. Randall (Judge Randall), and the Government submitted its Prehearing Statement, the Respondent, through its legal counsel, withdrew its opposition to the denial of its DEA application for registration. In response to the Respondent's request, Judge Randall also found that the Respondent had likewise withdrawn its request for hearing. Accordingly, on April 18, 2002, Judge Randall issued a Termination Order terminating all matters before her and the matter was subsequently transmitted to the Deputy Administrator for Final Agency Decision.

In light of the withdrawal of its request for hearing, the Deputy Administrator finds that the Respondent has waived its hearing right. Aqui Enterprises, 67 FR 12576 (2002). After considering relevant material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46. The Deputy Administrator finds as follows:

List I chemicals are those that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine and ephedrine are list I chemicals that are commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.