plight of his customers who admitted that they were addicted to codeine cough syrups is unpardonable. A pharmacist has an indisputable responsibility to monitor the dispensing of all controlled substances and that responsibility rests squarely on the dispensing party's shoulders in the case of Schedule V cough syrups.

The Administrator finds that Mr. Tendler's behavior was clearly violative of the Controlled Substance Act, and that the substantial weight of the evidence justifies revocation of Respondent's Certificate of Registration. Mr. Tendler not only has refused to discharge his statutory duties, but has shown no regret for his behavior, never seemingly believing that he acted illegally or even irresponsibly. Mr. Tendler was, in practical effect, maintaining the addiction of customers by refusing to monitor their receipt of codeine cough syrups from his pharmacy. Clearly, the Respondent was either unaware of or unconcerned with the laws and regulations under which he is governed. That lack of awareness or lack of concern is not tolerable.

Accordingly, the 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), hereby orders that DEA Certificate of Registration, AB5087449, issued to Barton Drug, Inc., be, and it hereby is, revoked, and any pending applications for renewal of such registration, be, and they hereby are, denied. This order is effective October 26, 1992.

Dated: September 17, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-23168 Filed 9-23-92; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 91-33]

William D. Caso, M.D.; Revocation of Registration

On July 23, 1992, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to William D. Caso, M.D., (Respondent), proposing to revoke his DEA Certificate of Registration, AC3019052, as a practitioner under 21 U.S.C. 824(a)(4), and deny any pending applications for renewal of registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause was issued alleging that Respondent's continued registration would be inconsistent with the public interest.

By letter dated August 8, 1991, Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held before Judge Tenney in Louisville, Kentucky, on January 15 and 16, 1992, and continued on February 19, 1992, in Washington, DC. On May 26, 1992, the administrative law judge issued his opinion and recommended decision. No exceptions to the recommendation of the administrative law judge were filed. On July 13, 1992, the administrative law judge transmitted the record of these proceedings to the Administrator. The Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67 hereby adopts the findings, conclusions and recommendations of the administrative law judge and issues his final order in this matter.

The administrative law judge found, first, that the Respondent was without State authority to handle controlled substances in the Commonwealth of Kentucky. Therefore, the administrative law judge correctly applied the mandate of 21 U.S.C. 824(a), which provides that registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Attorney General upon a finding that the Registrant (3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances. Such mandate acts as an independent ground for revocation of a DEA registration.

The administrative law judge further found that the Respondent prescribed and dispensed controlled substances to patients for no legitimate medical purpose, specifically noting the case of one individual, whose patient profile and corresponding patient chart demonstrates a clear abuse by the Respondent of the privilege of handling controlled substances. The administrative law judge paid particular attention to undercover visits paid to Respondent by a DEA Special Agent and a confidential informant. The tape recordings made of these visits showed quite clearly that the Respondent issued prescriptions to the Special Agent and the confidential informant without performing physical examinations, without providing the service of psychiatric counselling, and without knowledge of any other substances which the two individuals might be taking.

The administrative law judge adequately addressed the expert opinions presented by both sides, finding the hearsay statements of the Government's experts more persuasive than the live testimony of Respondent's expert. The administrative law judge noted that the reports of the Government's experts are highly detailed and that the Kentucky Board of Medical Licensure relied almost exclusively upon those reports in suspending the Respondent's privilege to handle controlled substances.

In evaluating whether Respondent's continued registration by the Drug Enforcement Administration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 824(a)(4), the Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registrant's continued registration is inconsistent with the public interest, the Administrator is not required to make findings with respect to each of the factors listed above. Instead, the Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See David E. Trawick, D.D.S., Docket No. 88-69, 53 FR 5326 (1988).

The administrative law judge found that the Government made a prima facie showing of the factors found in 21 U.S.C. 823(f) (1), (2), and (4) and (5), as referenced by 21 U.S.C. 824(a)(4). In so finding, the administrative law judge found that the Commonwealth of Kentucky had suspended the Respondent's privilege to handle controlled substances. The administrative law judge further found that the Respondent's experience in dispensing with respect to controlled substances was clearly outside the scope of legitimate medical practice and posed a danger to which the public should not be exposed.

The Respondent has ignored State and Federal laws and regulations regarding

the prescribing of controlled substances for a legitimate medical need. The Respondent did not attempt to determine the medical need of the undercover Special Agent and the confidential informant, yet prescribed almost all of the controlled substances to them which they, themselves, requested by name. The Respondent placed the life of the previously mentioned individual in danger by prescribing multiple controlled substances to him, some of which interacted in an extremely dangerous manner. Indeed, the testimony of both the individual and his wife indicated that the individual was required to be resuscitated on at least two occasions due to his intake of the controlled substances prescribed to him by the Respondent.

Quite obviously, the Respondent's behavior poses a threat to the public health and safety. Despite the Respondent's testimony regarding his attempts to merge physical, mental and spiritual therapy, the fact remains that he mishandled and overprescribed controlled substances on numerous occasions. Good intentions do not negate the dangerous effects of the controlled substances which were regularly and indiscriminately prescribed and dispensed to patients of the Respondent. Therefore, clear grounds exist to revoke the Respondent's DEA Certificate of Registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vest in him under the provisions of 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AC3019052, previously issued to William D. Caso, M.D., be and it is hereby, revoked. It is further ordered that any pending applications for renewal of that registration be, and they are hereby, denied. This order is effective on October 26, 1992.

Dated: September 17, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-23139 Filed 9-23-92; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 91-39]

Walter S. Gresham, M.D., Modification of Registration

On August 27, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Walter S. Gresham, M.D., (Respondent) of 425 West College Street, Bowdon, Georgia 30108, proposing to revoke his DEA Certificate of Registration, AG1179111, and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's continued registration is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, timely filed a request for a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Paul A. Tenney. Following prehearing procedures, a hearing was held commencing on January 28, 1992, in Atlanta, Georgia.

On May 4, 1992, Judge Tenney issued his opinion and recommended decision, recommending that Respondent's DEA Certificate of Registration not be revoked nor suspended but that Respondent's current DEA Certificate of Registration be modified to comply with the probation requirements imposed upon Respondent by the Composite State Board of Medical Examiners of the State of Georgia (Georgia Medical Board) on June 5, 1991, pursuant to a consent decree. The probation terms were to last three years beginning on June 5, 1991, but the administrative law judge further recommended that if the Georgia Medical Board lifted all terms of probation before the three-year period expired, then at that point the Administrator should allow Respondent's DEA Certificate of Registration to continue unrestricted. The administrative law judge also recommended that if the Georgia Medical Board alters or adds probation terms, the Administrator should conform his order to such alterations or additions. Subsequently, pursuant to 21 CFR 1316.66, Government counsel filed exceptions to the administrative law judge's opinion and recommended decision. Respondent's counsel filed a response to the Government's exceptions.

On June 4, 1992, Judge Tenney transmitted the record of the proceedings, including the Government's exceptions and Respondent's response thereto, to the Administrator. The Administrator has considered the record in its entirety and adopts the findings of fact and the conclusions of law, in part, recommended by the administrative law judge, and makes independent conclusions of his own. In so doing, the Administrator modifies the recommended ruling of the administrative law judge. Pursuant to 21 CFR 1316.67, the Administrator issues his final order in the matter based upon findings of fact and conclusions of law as set forth below.

The Administrator finds that Respondent overprescribed and overadministered several Schedule II controlled substance analgesics to a patient. This treatment commenced in 1979 and continued until October of 1989. Although Respondent's initial diagnosis of renal colic may have been justified, numerous tests performed by various hospitals as well as by Respondent consistently indicated that such a diagnosis was incorrect. Moreover, Respondent was informed as early as 1982 that the individual was abusing these medications. Therefore, the Administrator finds that the prescribing of these Schedule II controlled substances was not justified in light of the long duration and frequency that they were prescribed.

Based upon a series of six undercover visits conducted by an agent of the Georgia Medical Board who posed as a patient and based upon Respondent's admission, the Administrator finds that it was Respondent's practice to sign blank prescriptions. Respondent then gave these prescriptions with his signature to his wife, who was not a practitioner and who issued such prescriptions without having the patient examined by Respondent.

The Administrator also finds that the Georgia Medical Board, based upon a consent decree reached with Respondent, found that Respondent had engaged in the practice of presigning prescriptions from 1985 until August of 1989 when a search warrant was issued based upon the aforementioned undercover visits. The Georgia Medical Board did not revoke or suspend Respondent's medical license but placed Respondent on probation for a period of three years. The principal terms included that Respondent perform community service; pay a $2,000 fine; complete a pharmacology course; not prescribe, administer, or dispense Schedule II controlled substances except in a hospital setting or in a bona fide, life-threatening situation and notify the Georgia Medical Board within ten days of such hospitalization or emergency action; and keep all controlled substances that he issues in triplicate and send copies of such prescriptions to the Georgia Medical Board on a quarterly basis.

In evaluating whether Respondent's continued registration by the Drug Enforcement Administration would be inconsistent with the public interest, as that term is used in 21 U.S.C. 824(a)(4), the Administrator considers the factors enumerated in 21 U.S.C. 823(f):

(1) The recommendation of the appropriate state licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registrant's continued registration is inconsistent with the public interest, the Administrator is not required to make findings with respect to each of the factors listed above. Instead, Administrator has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. See *David E. Trawick, D.D.S.*, Docket No. 88–69, 53 FR 5326 (1988).

The administrative law judge concluded that Respondent's continued registration would not be inconsistent with the public interest as that term is used pursuant to 21 U.S.C. 823(f). The administrative law judge based this conclusion particularly upon the findings and recommendation of the Georgia Medical Board which placed Respondent's medical license on probation for three years as noted above. The Georgia Medical Board's Consent Order included a finding of fact that Respondent presigned prescriptions. These findings of fact also expressed "concerns" about Respondent's office policies "with respect to controlled substances and non-controlled prescription analgesics" without giving any more detail.

The administrative law judge made findings that Respondent was not in compliance with applicable Federal and State law based upon Respondent's overprescribing controlled substances to the individual and his practice of allowing his wife to issue his presigned prescriptions for controlled substances. The administrative law judge concluded, however, that both findings had mitigating circumstances: Respondent's overprescribing of controlled substances to the individual was based upon a legitimate diagnosis of renal colic and the individual's apparent intractable pain and Respondent issued presigned prescriptions under the belief that such a practice was lawful.

The Administrator has carefully reviewed the entire record and finds that three of the five public-interest factors apply. Respondent's experience in dispensing controlled substances is poor based upon his excessive prescribing of Schedule II controlled substances to the individual over a ten-year period under the second factor.

Pursuant to the fourth factor, the Administrator concludes that Respondent violated applicable State and Federal law by his practice of giving presigned prescriptions to a non-practitioner who in turn issued such prescriptions for controlled substances to patients who were not examined by Respondent. Although the administrative law judge found the Government did not prove that Respondent actually knew that such a practice was illegal when he issued such prescriptions, the Administrator concludes that Respondent's subjective knowledge is irrelevant. The danger in such a practice is allowing unauthorized persons to dispense controlled substances. In addition, the practice of having presigned prescriptions in and around the office invites diversion. Even if Respondent did not know that such a practice was unlawful he should have known. Respondent, as a registered physician has a duty to be informed of the laws governing controlled substances. *Yvon DeSamos, M.D.*, 49 FR 28779 (1984).

The Administrator disagrees with the administrative law judge's conclusion that the recommendation and probation terms imposed by the Georgia Medical Board should, in effect, govern the remedy imposed by the Administrator under the first public-interest factor. Although the recommendation of the appropriate state licensing board is a significant factor, it should not necessarily be given any greater weight than the other four factors under 21 U.S.C. 823(f). Indeed, the Administrator may revoke or suspend a registration based upon one or a combination of the other four factors, despite a recommendation of leniency or no recommendation at all by the appropriate state licensing authority. The Administrator concludes that the administrative law judge put too much emphasis on the Consent Order of the Georgia Medical Board.

The Administrator adopts the administrative law judge's recommendation but with modifications based upon the above findings of fact and conclusions. In light of the findings that Respondent overprescribed Schedule II controlled substances to an individual for a ten year-period and that he had an unauthorized person issue prescriptions presigned by Respondent, the Administrator concludes that the restrictions imposed upon Respondent by the Georgia Medical Board must also be imposed on Respondent's DEA Certificate of Registration. These restrictions include, but are not limited to: (1) Respondent is prohibited from prescribing, administering, or dispensing any Schedule II or IIN controlled substances except in a hospital setting or except in a bona fide, life-threatening emergency, in which case such emergency prescription shall be reported within ten days to the Medical Coordinator of the Georgia Medical Board; and (2) Respondent must keep all prescriptions, administrations, or dispensations of Schedule III, IIIN, and IV controlled substances in triplicate and give one copy to the patient, place one copy in the patient file, and send one copy to the Georgia Medical Board every quarter. These restrictions on Respondent's DEA Certificate of Registration, however, will not be terminated earlier than June 4, 1994, which is the date that the probation term was to expire under the Consent Order of the Georgia Medical Board, notwithstanding that the Georgia Medical Board sees fit to terminate Respondent's probation at an earlier date. Should the Georgia Medical Board order that Respondent's probation be extended beyond June 4, 1994, then such extension shall be imposed on Respondent's DEA Certificate of Registration. In the event that the Georgia Medical Board does terminate any or all of the restrictions prior to June 4, 1994, any reports or records that Respondent was required to send to the Georgia Medical Board in the above enumerated conditions shall be sent to the Drug Enforcement Administration, Atlanta Field Division, Office of Diversion.

Accordingly, the 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), hereby orders that DEA Certificate of Registration, AG1179111, previously issued to Walter S. Gresham, M.D., be, and it hereby is, continued provided that Walter S. Gresham, M.D., complies with the conditions imposed in the Consent Order of June 5, 1991, by the Composite State Board of Medical Examiners, State of Georgia. The Administrator further orders that such conditions shall continue until June 4, 1994, or until such time as the Composite State Board of Medical Examiners, State of Georgia, relieves Respondent from such conditions, whichever is later. The Administrator further orders that if the Composite State Board of Medical Examiners terminates Respondent's conditions before June 4, 1994, Respondent shall commence at that time

to send any reports of emergency Schedule II and IIN prescriptions, administrations, or dispensations within ten days of such prescribing, administering, or dispensing and copies of any Schedule III, IIIN, and IV prescriptions to the Drug Enforcement Administration. The Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, granted subject to the limitations expressed herein. This order is effective on September 24, 1992.

Dated: September 18, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-23214 Filed 9-23-92; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Date and Time: Oct. 19, 20, and 21, 1992; 8:30 a.m. to 6 p.m.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: Dr. Eve Ida Barak, Program Director for Cell Biology Program (Cellular Organization), Room 325, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-7474.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the Cell Biology Program of the Division of Molecular & Cellular Biosciences at NSF for financial support.

Agenda: To review and evaluate research proposals in the area of Call Biology (Cellular Organization) as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 21, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-23241 Filed 9-23-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Chemical and Thermal Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: October 20, 1992; 12 p.m. to 5 p.m. October 21, 1992; 8:30 a.m. to 5 p.m.

Place: Frank Lloyd Wright Room, The American Institute of Architects, 1735 New York Avenue, NW., Washington, DC 20006.

Type of Meeting: Open.

Contact Person: Dr. Henry A. McGee, Jr., Division Director, Chemical and Thermal System, Room 1110, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357-9606.

Minutes: May by obtained from the contact person listed above.

Purpose of meeting: To provide advice and recommendations concerning the chemical and thermal fluid sciences components of the engineering community.

Agenda: The meeting will be focusing on the implications of the work of the new Commission on the Future of the NSF and on the management of the several initiatives that are underway in the Chemical and Thermal Systems Division.

Dated: September 21, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-23231 Filed 9-23-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Chemistry; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Date and Time: October 22, 1992; 8 am to 5 pm and October 23, 1992; 8 am to 12 pm.

Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Richard L. Hilderbrandt, Program Director, 1800 G Street, NW., room 340, Washington, DC 20550. Telephone: (202) 357-9826.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Graduate Research Traineeship proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 21, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-23230 Filed 9-23-92; 8:45 am]

BILLING CODE 7555-01-M

DOE/NSF Nuclear Science Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting.

Date And Time: October 13, 1992, 8 p.m. to 10 p.m.

Place: Eldorado Hotel, Zia Room, 309 West San Francisco St., Santa Fe, NM 87501.

Type of Meeting: Open.

Contact Person: John W. Lightbody, Program Director for Nuclear Physics, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357-7993.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise the National Science Foundation and the Department of Energy on scientific priorities within the field of basic nuclear science research.

Agenda: Introduction of New Members—Status of DOE and NSF Nuclear Physics Programs—Discussion of Future Directions—Public Comments (Persons wishing to speak should make arrangements through the Contact Person identified above.)

Dated: September 21, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-23227 Filed 9-23-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Information, Robotics and Intelligent Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: October 19-21, 1992; 9 a.m. to 5:30 p.m.

Place: State Plaza Hotel, 2117 E. Street NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Laurence Rosenberg, Deputy Division Director, Division of information, Robotics and Intelligent Systems, room 310, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Telephone: (202) 357-9592.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Data Base Expert Systems and Knowledge Models and