

KLEINBERG AND KAPLAN

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and any substance currently listed in Schedule II. At most, a relatively minimal risk of psychological dependence would be associated with the abusive use of amphetamine resin complexes. In addition, at the hearing Penwalt will, if necessary, show that the history and pattern of abuse of Biphetamine and Biphetamine-T does not support a Schedule II classification.

Under Section 202(b) of the Act, in order to subject a drug or other substance to Schedule II control, the Director of the Bureau must find that the substance meets the criteria for inclusion specified in Section 202(b) (2) (A) (B) and (C). Such findings may be made only after the Director has received a scientific and medical evaluation and recommendation from the Secretary of Health, Education and Welfare. By letter dated May 3, 1971, the Director formally requested the Secretary to provide his evaluations and recommendations on methamphetamine, the amphetamines, and on Ciba's Ritalin and Geigy's Preludin. In a letter dated May 13, 1971, from the Secretary of Health, Education, and Welfare to the Attorney General, the Secretary set forth certain naked findings and recommendations which related solely to the amphetamines and methamphetamine. These findings and recommendations in no manner dealt with amphetamine resin complexes. Consequently, no proper foundation presently exists to initiate proceedings to subject such complexes to Schedule II controls.