

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

The purpose of this meeting/conference call is vote on the position of Board Chairperson, review issues relevant to the nomination review process, pending ceremonies and upcoming activities and other relevant Board issues related thereto.

This meeting/conference call is open to the public at the offices of the Bureau of Justice Assistance. For security purposes, members of the public who wish to participate must register at least seven (7) days in advance of the meeting/conference call by contacting Mr. Joy. All interested participants will be required to meet at the Bureau of Justice Assistance, Office of Justice Programs; 810 7th Street, NW., Washington, DC and will be required to sign in at the front desk. **Note:** Photo identification will be required for admission. Additional identification documents may be required.

Access to the meeting/conference call will not be allowed without prior registration. Anyone requiring special accommodations should contact Mr. Joy at least seven (7) days in advance of the meeting. Please submit any comments or written statements for consideration by the Review Board in writing at least seven (7) days in advance of the meeting date.

James H. Burch, II,

Acting Director, Bureau of Justice Assistance.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 10-14]

Shepard Ginandes, M.D.; Revocation of Registration

On September 28, 2009, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and Immediate Suspension of Registration to Shepard Ginandes, M.D. (Respondent), of Honolulu, Hawaii. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BG0241024, and the denial of any pending applications to renew or

modify his registration, on the ground that his "continued registrations is inconsistent with the public interest." Show Cause Order at 1 (citing 21 U.S.C. 824(a)(4) & 823(f)).

The Show Cause Order specifically alleged that on twenty-four different occasions between March 2007 and January 2009, Respondent had given prescriptions to law enforcement personnel for schedule II controlled substances including methadone, morphine, oxycodone, and hydromorphone, the schedule III controlled substance hydrocodone, and the schedule IV controlled substances alprazolam and diazepam. *Id.* at 1-2. The Order further alleged that Respondent's office did not have any exam rooms and medical equipment; that he did not take a medical history or require the officers to fill out any paperwork; did not conduct a physical examination; and that the officers would simply write their name, address and the drug they were seeking on a piece of paper which Respondent would take and then use to prepare a prescription. *Id.* at 2. The Order thus alleged that these prescriptions lacked a legitimate medical purpose and were issued in violation of 21 CFR 1306.04. *Id.* The Order further alleged that Respondent was continuing to prescribe controlled substances without a legitimate medical purpose. *Id.*

Based on the above, I further found that there was a substantial likelihood that Respondent "will continue to write controlled substance prescriptions for other than a legitimate medical purpose." *Id.* I therefore concluded that Respondent's continued registration during the pendency of the proceeding "would constitute an imminent danger to the public health and safety" and ordered that his registration be immediately suspended. *Id.*¹

On September 30, 2009, the Order was served on Respondent. On November 3, 2009, Respondent, through his counsel, filed a letter requesting a hearing. ALJ Dec. at 2. Therein, Respondent also sought "a reversal of the proposed suspension." *Id.* The matter was then placed on the docket of the Agency's Administrative Law Judges.

¹ The Order also informed Respondent of his right to request a hearing on the allegations and the procedure for doing so, including that he must file a written request for a hearing "[w]ithin 30 days after the date of receipt of" the Order, Show Cause Order at 2, that "[m]atters are deemed filed upon receipt by the Hearing Clerk," *id.* at 3 (citing 21 CFR 1316.45), and that should he "decline to file a request for a hearing" he "shall be deemed to have waived the right to a hearing." *Id.* (citing 21 CFR 1301.43(d) & (e)).

The next day, the Government moved for summary disposition on the ground that on September 30, 2009, the State of Hawaii had "suspended/revoked" Respondent's state controlled substances registration and that "Respondent is no longer authorized to administer, prescribe, dispense or possess controlled substances." Gov. Mot. for Summ. Disp. at 1. Based on long-standing precedent which holds that "possessing authority under state law to handle controlled substance is an essential condition for holding a DEA registration," the Government requested that the ALJ grant its motion, cancel the pending proceeding and forward the matter to me with the recommendation that I revoke Respondent's registration and deny any pending applications. *Id.* at 2-3. Noting that Respondent's hearing request was not received until November 3, 2009, and was therefore untimely, the Government also argued that Respondent had waived his right to a hearing. *Id.* n.1.

Thereafter, the ALJ ordered that Respondent file a Response to the Government's Motion no later than November 12, 2009. ALJ Dec. at 3. The ALJ also stayed the proceeding. *Id.*

Respondent did not, however, file a Response. *Id.* Thereafter, the ALJ found that "Respondent's lacks authority to handle controlled substance in the State of Hawaii," the State in which he is licensed to practice medicine. *Id.* Because holding authority under state law to handle controlled substances is an essential condition for holding a DEA registration, the ALJ granted the Government's Motion for Summary Disposition and recommended that his registration be revoked and his pending application be denied. *Id.* at 4-6.

The ALJ then forwarded the matter to me for final agency action. Having considered the record as a whole, I find that under the Agency's regulation, Respondent's request for a hearing was untimely and that he has not offered good cause for his failure to file a timely request. 21 CFR 1301.43(d). I therefore find that Respondent waived his right to contest the proceeding. *Id.* (1301.43(e)).

I further find that on September 4, 2009, Respondent applied to renew his registration, which was to expire on September 30, 2009. I therefore find that Respondent's registration has remained in effect, albeit in suspended status, pending the issuance of this Decision and Final Order. *See* 5 U.S.C. 557(c).

I further find that on September 30, 2009, the Administrator of the Narcotics Enforcement Division, Department of Public Safety, State of Hawaii, "suspended/revoked" Respondent's State of Hawaii Controlled Substance

Registration. Gov. Mot. for Summ. Disp., Ex. A (letter from Keith Kamita, Administrator, Narcotics Enforcement Division, Hawaii Dept. of Public Safety to Shepard Ginandes, M.D.) Based on Administrator Kamita's letter, I further find that Respondent is "no longer authorized to administer, prescribe, dispense or possess any controlled substance" in Hawaii. *Id.*

Under the Controlled Substances Act (CSA), a practitioner must be currently authorized to handle controlled substances in "the jurisdiction in which he practices" in order to maintain a DEA registration. See 21 U.S.C. 802(21) ("[t]he term 'practitioner' means a physician * * * licensed, registered, or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice"). See also *id.* § 823(f) ("The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices."). As these provisions make plain, possessing authority under state law to handle controlled substances is an essential condition for holding a DEA registration.

Accordingly, DEA has held repeatedly that the CSA requires the revocation of a registration issued to a practitioner whose state license has been suspended or revoked. *David Wang*, 72 FR 54297, 54298 (2007); *Sheran Arden Yeates*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988). See also 21 U.S.C. 824(a)(3) (authorizing the revocation of a registration "upon a finding that the registrant * * * has had his State license or registration suspended [or] revoked * * * and is no longer authorized by State law to engage in the * * * distribution [or] dispensing of controlled substances").

The record here establishes that the Respondent's State of Hawaii Controlled Substances Registration has been suspended/revoked by the Administrator of the Narcotics Enforcement Division, Department of Public Safety, State of Hawaii. As the Administrator's letter makes clear, Respondent is "no longer authorized to administer, prescribe, dispense or possess any controlled substance" under Hawaii law and thus, he no longer meets the requirement for obtaining and maintaining a registration under Federal law. Because Respondent is not entitled to maintain his DEA registration, his registration will be revoked and his pending application to renew his registration will be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate of Registration, BG0241024, issued to Shepard Ginandes, M.D., be, and it hereby is, revoked. I further order that the pending application to renew this registration be, and it hereby is, denied. This order is effective immediately.

Dated: February 25, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010-13144 Filed 6-1-10; 8:45 am]

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DEPARTMENT OF LABOR

Wage and Hour Division

Proposed Extension of the Approval of Information Collection Requirements

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Special Employment Under the Fair Labor Standards Act (Forms WH-2, WH-46, WH-75, WH-200, WH-201, WH-202, WH-205, and WH-209). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 2, 2010.

ADDRESSES: You may submit comments identified by Control Number 1235-

0001, by either one of the following methods:

E-mail: WHDPRAComments@dol.gov;
Mail, Hand Delivery, Courier:

Regulatory Analysis Branch, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT:

Michel Smyth, Acting Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Copies of this notice must be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693-0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. *Background:* Fair Labor Standards Act (FLSA) section 11(d) authorizes the Secretary of Labor to regulate, restrict, or prohibit industrial homework as necessary to prevent circumvention or evasion of the minimum wage requirements of the Act. 29 U.S.C. 211(d). The Department of Labor (DOL) restricts homework in seven industries (*i.e.*, knitted outerwear, women's apparel, jewelry manufacturing, gloves and mittens, button and buckle manufacturing, handkerchief manufacturing, and embroideries) to those employers who obtain certificates. See 29 CFR 530.1-.2. The DOL may also issue individual certificates in any industry for an individual homemaker who is unable to leave home because of a disability or must remain at home to care for an invalid. See 29 CFR 530.3-.4. The DOL allows employers to obtain general (employer) certificates to employ homeworkers in all restricted industries, except women's apparel and hazardous jewelry manufacturing