

By letter dated September 3, 2003, the Respondent, through her legal counsel, timely requested a hearing in response to the show cause order. On September 29, 2003, the presiding Administrative Law Judge Mary Ellen Bittner (Judge Bittner) issued to the Government as well as the Respondent an Order for Prehearing Statements.

In lieu of filing a pre-hearing statement, counsel for DEA filed Government's Motion for Summary Disposition. In its motion, the Government asserted that the Respondent is without authorization to handle controlled substances in the State of Iowa, and as a result, further proceedings in the matter were not required. Attached to the Government's motion was an Order of Immediate Suspension of Controlled Substance Registration issued by the Board of Pharmacy Examiners of the State of Iowa (Pharmacy Board), dated May 9, 2003.

On October 17, 2003, the Respondent filed a reply brief with the caption, "Resistance to Government's Motion for Summary Disposition." In its brief, the Respondent argued, *inter alia*, that she is entitled to due process of law; she has been wrongfully accused of having a controlled substance abuse problem; a requested hearing before the Pharmacy Board will clarify the issue and should result in the reinstatement of Respondent's State controlled substance registration; the Pharmacy Board arrived at an "incorrect decision" in suspending Respondent's State controlled substance registration; and, there is no compelling need for DEA to proceed with summary disposition in this proceeding when matters involving Respondent's State controlled substance registration are under review. The Respondent however, concedes that she is currently without authorization to handle controlled substances in Iowa.

On December 8, 2003, Judge Bittner issued her Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision). As part of her recommended ruling, Judge Bittner granted the Government's Motion for Summary Disposition and found that Respondent lacked authorization to handle controlled substances in Iowa, the jurisdiction where Respondent holds a DEA registration. In granting the Government's motion, Judge Bittner also recommended that the Respondent's DEA registration be revoked and any pending applications for modification or renewal be denied. No exceptions were filed by either party to Judge Bittner's Opinion and Recommended Decision, and on January 16, 2004, the record of

these proceedings were transmitted to the Office of the DEA Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Deputy Administrator finds that the Respondent currently possesses DEA Certificate of Registration BS6351821, and is registered to handle controlled substances in Iowa. The record before the Deputy Administrator reveals that on May 9, 2003, the Iowa Pharmacy Board issued an order suspending the Respondent's State controlled substance registration, effective immediately.

In reaching its decision, the Pharmacy Board found that during a thirteen-month period, Respondent wrote 176 prescriptions for Demerol, purportedly for animal patients. Several of the animal patients were owned by the Respondent. The Pharmacy Board found however, that the Respondent did not administer Demerol to her patients, but instead, obtained the drug for her personal use. The Pharmacy Board also found that the Respondent did not maintain required records for the dispensing of controlled substances. There is no evidence before the Deputy Administrator that the Pharmacy Board's order has been stayed or rescinded, or that Respondent's State controlled substance privileges have otherwise been 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. Pelkowski, D.D.S., 57 FR 28538 (1992). Nevertheless, despite the Pharmacy Board's findings regarding the Respondent's inappropriate handling of controlled substances, and notwithstanding the other public interest factors for the revocation of her DEA registration asserted herein, the more relevant consideration here is the present status of the Respondent'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* Stephen J. Graham, M.D., 69 FR 11661 (2004); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Respondent's Iowa controlled substance license has been suspended, and as a result, she is not licensed under Iowa law to handle these products. Therefore, she is not entitled to a DEA registration in that state. As a result of a finding that Respondent lacks State authorization to handle controlled substances, the Deputy Administrator concludes that it is unnecessary to address further whether Respondent's 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, BS6351821, issued to Deborah Y. Strauss, D.V.M., 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 July 16, 2004.

Dated: May 17, 2004.

**Michele M. Leonhart,**  
Deputy Administrator.

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-day notice of information collection under review: State Court Organization, 2004.

The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is

published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** volume 68, number 69, on page 57 on March 24, 2004, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 16, 2004. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

- (1) *Type of Information Collection:* New collection.
- (2) *Title of the Form/Collection:* State Court Organization, 2004.
- (3) *Agency Form Number, if any, and the Applicable Component of the Department of Justice Sponsoring the Collection:* Form Number: SP-1, Office of Justice Programs.
- (4) *Affected Public who Will be Asked or Required To Respond, as Well as a Brief Abstract:* Primary: State Trial and Appellate Courts. 42 U.S.C. 3711, *et seq.* authorizes the Department of Justice to

collect and analyze statistical information concerning crime, juvenile delinquency, the operation of the criminal justice system and related aspects of the civil justice system, and to support the development of information and statistical systems at the Federal, State, and local levels.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent To Respond:* An estimated 53 copies of a two part data collection survey will be submitted to the State Court Administration in each State and that 99 copies of appellate court surveys will be submitted to the Intermediate Appellate Clerk and the Clerk for the Court of Last Resort in each State.

(6) *An Estimate of the Total Public Burden (in Hours) Associated With the Collection:* The estimated total burden hours associated with this information collection is 1,216.

#### FOR FURTHER INFORMATION CONTACT:

Brenda E. Dyer, Department Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: June 9, 2004.

**Brenda E. Dyer,**

*Department Deputy Clearance Officer,  
Department of Justice.*

[FR Doc. 04-13528 Filed 6-15-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

June 9, 2004.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Darrin King on 202-693-4129 (this is not a toll-free number) or e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and

Budget, Room 10235, Washington, DC 20503, 202-395-7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Mine Safety and Health Administration.

*Type of Review:* Extension of currently approved collection.

*Title:* Operations Under Water.

*OMB Number:* 1219-0020.

*Frequency:* On occasion.

*Type of Response:* Recordkeeping and Reporting.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 36.

*Number of Annual Responses:* 36.

*Estimated Time Per Response:* 5 hours.

*Total Burden Hours:* 180.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$540.

*Description:* Title 30 CFR 75.1716, 75.1716-1 and 75.1716-3 require operators of underground coal mines to provide MSHA notification before mining under bodies of water and to obtain a permit to mine under a body of water if, in the judgment of the Secretary, it is sufficiently large to constitute a hazard to miners. This is a statutory provision contained in section 317(r) of the Federal Mine Safety and Health Act of 1977. The regulation is necessary to prevent the inundation of underground coal mines with water which has the potential of drowning miners.

*Agency:* Mine Safety and Health Administration.