

received from the Respondent, through counsel, a timely filed request for hearing (Hearing Request) which, concedes that the Respondent lacks authority to handle controlled substances in the State of Louisiana. The same day, this tribunal issued an order: (1) Directing the Government to “provide evidence to support the allegation that the Respondent lacks state authority to handle controlled substances” on or before July 13, 2012; (2) setting a deadline of July 13, 2012, for the Government to file a motion for summary disposition; and (3) setting a deadline of July 25, 2012, for the Respondent to respond to any motion for summary disposition. Briefing Schedule, at 1–2.

On July 6, 2012, the Government filed a Motion for Summary Disposition (“MSD”), seeking: (1) Summary disposition; and (2) a recommendation that “the Respondent’s DEA COR as a practitioner be revoked, based on the Respondent’s lack of a state license.” MSD, at 5. A copy of an April 21, 2012, Order for Summary Suspension of Medical License issued by the Louisiana State Board of Medical Examiners (Louisiana Board Order) was attached to the motion. The Respondent did not file a response to the Government’s motion within the time allowed. Accordingly, the motion will be deemed unopposed.

The Controlled Substances Act (CSA) requires that, in order to maintain a DEA registration, a practitioner must be authorized to handle controlled substances in “the jurisdiction in which he practices.” 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.”). DEA has long held that possession of authority under state law to dispense controlled substances is an essential condition for obtaining and maintaining a DEA registration. *Serenity Café*, 77 FR 35027, 35028 (2012); *David W. Wang*, 72 FR 54297, 54298 (2007); *Sheran Arden Yeates*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988). Because “possessing authority under state law to handle controlled substances is an essential condition for holding a DEA registration,” this Agency has consistently held that “the CSA requires

the revocation of a registration issued to a practitioner who lacks [such authority].” *Roy Chi Lung*, 74 FR 20346, 20347 (2009); see also *Scott Sandarg, D.M.D.*, 74 FR 17528, 174529 (2009); *John B. Freitas, D.O.*, 74 FR 17524, 17525 (2009); *Roger A. Rodriguez, M.D.*, 70 FR 33206, 33207 (2005); *Stephen J. Graham, M.D.*, 69 FR 11661 (2004); *Abraham A. Chaplan, M.D.*, 57 FR 55280 (1992); see also *Harrell E. Robinson*, 74 FR 61370, 61375 (2009). “[R]evocation is warranted even where a practitioner’s state authority has been summarily suspended and the State has yet to provide the practitioner with a hearing to challenge the State’s action at which he may ultimately prevail.” *Kamal Tiwari, M.D.*, 76 FR 71604, 71606, (2011); see also *Bourne Pharmacy, Inc.*, 72 FR 18273, 18274 (2007); *Anne Lazar Thorn*, 62 FR 12847 (1997).

Congress does not intend for administrative agencies to perform meaningless tasks. See *Philip E. Kirk, M.D.*, 48 FR 32887 (1983), *aff’d sub nom. Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984); see also *Puerto Rico Aqueduct & Sewer Auth. v. EPA*, 35 F.3d 600, 605 (1st Cir. 1994); *NLRB v. Int’l Assoc. of Bridge, Structural & Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977); *United States v. Consol. Mines & Smelting Co.*, 455 F.2d 432, 453 (9th Cir. 1971). Thus, it is well-settled that, where no genuine question of fact is involved, or when the material facts are agreed upon, a plenary, adversarial administrative proceeding is not required. See *Jesus R. Juarez, M.D.*, 62 FR 14945 (1997); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993). Here, both parties agree, and the supplied Louisiana Board Order establishes, that the Respondent is without authorization to practice medicine or handle controlled substances in Louisiana, the jurisdiction where the Respondent holds the DEA COR that is the subject of this litigation.

Summary disposition of an administrative case is warranted where, as here, “there is no factual dispute of substance.” See *Veg-Mix, Inc.*, 832 F.2d 601, 607 (D.C. Cir. 1987) (“an agency may ordinarily dispense with a hearing when no genuine dispute exists”).<sup>1</sup> At this juncture, no genuine dispute exists

<sup>1</sup> Even assuming *arguendo* the possibility that the Respondent’s state controlled substances privileges could be reinstated, summary disposition would still be warranted because “revocation is also appropriate when a state license has been suspended, but with the possibility of future reinstatement,” *Rodriguez*, 70 FR at 33207 (citations omitted), and even where there is a judicial challenge to the state medical board action actively pending in the state courts. *Michael G. Dolin, M.D.*, 65 FR 5661, 5662 (2000).

over the fact that the Respondent lacks state authority to handle controlled substances in the State of Louisiana. Because the Respondent lacks such state authority, both the plain language of applicable federal statutory provisions and Agency interpretive precedent dictate that the Respondent is not entitled to maintain his DEA registration. Simply put, there is no contested factual matter adducible at a hearing that would provide DEA with the authority to allow the Respondent to continue to hold his COR. I therefore conclude that further delay in ruling on the Government’s motion for summary disposition is not warranted. See *Gregory F. Saric, M.D.*, 76 FR 16821 (2011) (stay denied in the face of Respondent’s petition based on pending state administrative action wherein he was seeking reinstatement of state privileges).

Accordingly, I hereby *Grant* the Government’s Motion for Summary Disposition; and *recommend* that the Respondent’s DEA registration be *revoked* forthwith and any pending applications for renewal be *denied*.

Dated: July 27, 2012.

**John J. Mulrooney, II,**

Chief Administrative Law Judge

[FR Doc. 2012-27692 Filed 11-14-12; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

[OJP (OVC) Docket No. 1609]

#### Meeting of the SANE/SART AI/AN Initiative Committee

**AGENCY:** Office for Victims of Crime, Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Coordination Committee on the Sexual Assault Nurse Examiner (SANE) Sexual Assault Response Team (SART) American Indian/Alaskan Native (AI/AN) Initiative (“SANE/SART AI/AN Initiative Committee” or “Committee”) will meet to carry out its mission to provide valuable advice to assist the Office for Victims of Crime (OVC) to promote culturally relevant, victim-centered responses to sexual violence within AI/AN communities.

**Dates and Locations:** The meeting will be held on the reservation of the Agua Caliente Band of Cahuilla Indians at the Agua Caliente Spa Hotel, located at E. Tahquitz Canyon Way and N. Calle Encilia, Palm Springs, California 92262, on Tuesday, December 4, 2012, and

Wednesday, December 5, 2012, from 9:00 a.m. to 5:00 p.m. PST.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Gless, Designated Federal Officer (DFO) for the SANE/SART AI/AN Initiative Committee, Office for Victims of Crime, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531; Phone: (202) 307-6049 [note: this is not a toll-free number]; Email: [kathleen.gless@usdoj.gov](mailto:kathleen.gless@usdoj.gov).

**SUPPLEMENTARY INFORMATION:** The National Coordination Committee on the Sexual Assault Nurse Examiner (SANE) Sexual Assault Response Team (SART) American Indian/Alaskan Native (AI/AN) Initiative ("SANE/SART AI/AN Initiative Committee" or "Committee") was established by the Attorney General to provide valuable advice to OVC to encourage the coordination federal, tribal, state, and local efforts to assist victims of sexual violence within AI/AN communities, and to promote culturally relevant, victim-centered responses to sexual violence within those communities.

**Meeting Agenda:** The agenda will include: (a) Traditional opening ceremonies, welcome, and introductions; (b) remarks from the Acting Director of OVC; (c) presentations by and about the AI/AN SANE-SART Initiative demonstration sites and federal Working Groups; (d) small and large group discussions; (e) the development of recommendations regarding the coordination of federal partners to address sexual violence; and (f) a closing ceremony and adjournment. The meeting is open to the public. Photo identification will be required. Space is limited.

**Kathleen Gless,**

*Victim Justice Program Specialist, Designated Federal Official—SANE-SART AI/AN Initiative Committee, Office for Victims of Crime.*

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## DEPARTMENT OF LABOR

### Office of the Secretary

**Agency Information Collection Activities; Submission for OMB Review; Comment Request: Main Fan Operation and Inspection (I-A, II-A, III, and V-A Mines)**

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA)

sponsored information collection request (ICR) titled, "Main Fan Operation and Inspection (I-A, II-A, III, and V-A Mines)," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

**DATES:** Submit comments on or before December 17, 2012.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, <http://www.reginfo.gov/public/do/PRAMain>, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or sending an email to [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-MSHA, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503, Fax: 202-395-6881 (this is not a toll-free number), email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov).

**FOR FURTHER INFORMATION:** Contact Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** Potentially gassy (explosive) conditions underground are largely controlled by main fans. When accumulations of explosive gases, such as methane, are not swept from the mine by the main fans, they may reasonably be expected to contact an ignition source. The results of such contacts are usually disastrous, and multiple fatalities may be reasonably expected to occur. The Main Fan Operation and Inspection standard contains significantly more stringent requirements for main fans in gassy mines than for main fans in other mines. Regulations 30 CFR 57.22204, which only applies to gassy metal and nonmetal underground mines, requires main fans to have pressure-recording systems. The standard also requires main fans to be inspected daily while operating if persons are underground and certification made of such inspections by signature and date. Certifications and pressure recordings must be retained for one year and made available to authorized representatives of the Secretary.

This information collection is subject to the PRA. A Federal agency generally

cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219-0030. The current approval is scheduled to expire on January 31, 2013; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on July 17, 2012 (77 FR 42004).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219-0030. The OMB is particularly interested in comments that:

- 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:** DOL-MSHA.

**Title of Collection:** Main Fan Operation and Inspection (I-A, II-A, III, and V-A Mines).

**OMB Control Number:** 1219-0030.

**Affected Public:** Private Sector—businesses or other for profits.

**Total Estimated Number of Respondents:** 7.