On October 27, 2015, the Government filed a Motion for Summary Disposition Based on Respondent's Lack of State Authorization to Handle Controlled Substances and Submission of Evidence in Support of Such Motion (''Motion for Summary Disposition''). Therein, the Government argued that the Respondent currently lacks state authority in Massachusetts and Connecticut to handle controlled substances. Mot. for Summ. Disp. at 3. First, the Government argued that the Respondent voluntarily agreed with the Massachusetts Board of Registration in Medicine (''Massachusetts Board'') to refrain from practicing medicine. Mot. for Summ. Disp. at 2. Attached to the Government's Motion is a copy of the Voluntary Agreement Not to Practice Medicine, entered into by the Respondent and the Massachusetts Board. Mot. for Summ. Disp. Ex. C, at 3–4. Second, the Government argued that the Respondent's Connecticut controlled substance registration was suspended because the Respondent made false statements in his renewal application. Mot. for Summ. Disp. at 2. Attached to the Government's Motion is the Connecticut Department of Consumer Protection's (''CDCP'') Order of Immediate Suspension of Controlled Substance Registration No. 22241. Mot. for Summ. Disp. Ex. D, at 1–2.

On November 4, 2015, the Respondent's counsel filed an Affirmation in Opposition (''Respondent's Reply''). In his Reply, the Respondent's counsel asserted that, although the Respondent's Connecticut controlled substance registration currently is suspended, the CDCP conducted a hearing on September 17, 2015, regarding the suspension. Resp't Reply at 1–2. The Respondent's counsel asserted that the CDCP's final decision may change his registration status. Resp't Reply at 1–2, 7–8. The Respondent's counsel also asserted that, although the Respondent signed an agreement not to practice in Massachusetts, that agreement was predicated on the suspension of the Respondent's Rhode Island license, and that his Rhode Island license may be restored.[3] Resp't Reply at 4–5, 7.

In revocation cases, the Government has the burden of proving that the requirements for revocation are satisfied. 21 CFR 1301.44(e) (2015). The Government also bears the initial burden of production. If the Government makes a *prima facie* case for revocation, the burden of production shifts to the registrant to show that revocation is inappropriate. *Morall* v. *DEA,* 412 F.3d 165, 174 (D.C. Cir. 2005).

To maintain a DEA registration, a practitioner must be currently authorized to handle controlled substances in the jurisdiction where he practices. *See* 21 U.S.C. 802(21), 823(f) (2012). A registrant must possess state authority to dispense controlled substances in order to obtain and maintain DEA registration. *E.g., Serenity Café,* 77 FR 35027, 35028 (2012). Accordingly, the Controlled Substances Act ''requires the revocation of a registration issued to a practitioner whose State license has been suspended or revoked.'' *Scott Sandarg, D.M.D.,* 74 FR 17528, 17529 (2009).

The Respondent argues that his COR should not be revoked because the CDCP may restore his Connecticut registration. However, ''it does not matter whether the suspension . . . [is] pending the outcome of a state proceeding. Rather, what matters—as DEA has repeatedly held—is whether Respondent is without authority under [state] law to dispense a controlled substance.'' *Bourne Pharmacy, Inc.,* 72 FR 18273, 18274 (2007); *see also Grider Drug #1 & Grider Drug #2,* 77 FR 44069, 44104 n.97 (2012).

The Respondent requested a stay of these proceedings until the CDCP reaches a final decision regarding his Connecticut registration. Req. for Hr'g at 2; Resp't Reply at 8. This Agency routinely denies ''requests to stay the issuance of a final order of revocation . . . [because] a practitioner must be *currently* authorized to handle controlled substances . . . to maintain [his] DEA registration.'' *Gregory F. Saric, M.D.,* 76 FR 16821 (2011) (emphasis added) (internal quotations and citations omitted). Because evaluating ''whether Respondent's state license will be re-instated is entirely speculative,'' *id.,* ''[i]t is not DEA's policy to stay proceedings . . . while registrants litigate in other forums.'' *Newcare Home Health Servs.,* 72 FR 42126, 42127 n.2 (2007) (citing *Bourne Pharmacy,* 72 FR at 18273; *Oakland Med. Pharmacy,* 71 FR 50100 (2006); *Kennard Kobrin, M.D.,* 70 FR 33199 (2005)). Therefore, the Respondent's request to stay the proceedings pending the CDCP's final decision is *denied.*

The disposition of the Government's Motion depends on whether the Respondent possesses state authority to handle controlled substances. The administrative record establishes that he does not. The CDCP's Order of Immediate Suspension of Controlled Substance Registration No. 22241 establishes that his Connecticut controlled substances registration currently is suspended. Accordingly, the Respondent lacks authorization to handle controlled substances in Connecticut, where DEA COR Number FA3033002 is registered. Additionally, the Massachusetts Voluntary Agreement Not to Practice Medicine establishes that the Respondent currently lacks authorization to handle controlled substances in Massachusetts, where DEA COR Number BA4089721 is registered.

Where there is no genuine question of fact, or there is agreement upon the material facts, a plenary, adversarial hearing is not required. *See, e.g., Jesus R. Juarez, M.D.,* 62 FR 14945 (1997). Thus, summary disposition is warranted here because ''there is no factual dispute of substance.'' *See Veg-Mix, Inc.,* 832 F.2d 601, 607 (D.C. Cir. 1987). As of the date of this Recommended Decision, the Respondent currently lacks state authority to handle controlled substances in both Connecticut and Massachusetts; therefore, he cannot maintain his DEA registrations. The Government's Motion for Summary Disposition is *granted,* and it is *recommended* that the Respondent's DEA registrations be *revoked* and any pending applications for renewal be *denied.*

Dated: November 6, 2015

Charles Wm. Dorman,

Administrative Law Judge.

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[3] The Respondent asserts that he entered a voluntary agreement suspending his Massachusetts license because his Rhode Island license was suspended. Resp't Reply at 4–6. The Respondent also asserts that he requested a hearing on the suspension of his Rhode Island license, but has not challenged his Massachusetts license's suspension. Req. for Hr'g at 1; Resp't Reply at 7. This case, however, do not address any DEA registration to dispense controlled substances in Rhode Island. Thus, the status of the Respondent's Rhode Island license is not considered here. *See Brian Earl Cressman, M.D.,* 78 FR 12091, 12092 n.2 (2013) (noting that ''a registrant's controlled substance privileges in a state outside the state of his DEA registration [are] irrelevant'') (citing *Shahid Musud Siddiqui, M.D.,* 61 FR 14818 (1996)).

DEPARTMENT OF JUSTICE

[OMB Number 1110–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection

AGENCY: Federal Bureau of Investigation, Department of Justice Violent Criminal Apprehension Program (ViCAP).

ACTION: 60-day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Critical Incident Response Group will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until March 21, 2016.

FOR FURTHER INFORMATION CONTACT: All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Lesa Marcolini, Program Manager, Federal Bureau of Investigation, Critical Incident Response Group, ViCAP, FBI Academy, Quantico, Virginia 22135; facsimile (703) 632–4239.

SUPPLEMENTARY INFORMATION: 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 Bureau of Justice Statistics, 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;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* ViCAP Case Submission Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection: The form number is* FD–676. The applicable component within the Department of Justice is the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal, state, local, and tribal government law enforcement agencies charged with the responsibility of investigating violent crimes.

Abstract: Established by the Department of Justice in 1985, ViCAP serves as the national repository for violent crimes; specifically;

Homicides (and attempts) that are known or suspected to be part of a series and/or are apparently random, motiveless, or sexually oriented.

Sexual assaults that are known or suspected to be part of a series and/or are committed by a stranger.

Missing persons where the circumstances indicate a strong possibility of foul play and the victim is still missing.

Unidentified human remains where the manner of death is known or suspected to be homicide.

Comprehensive case information submitted to ViCAP is maintained in the ViCAP Web National Crime Database and is automatically compared to all other cases in the databases to identify potentially related cases.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Of the approximately 18,000 government law enforcement agencies that are eligible to submit cases, it is estimated that thirty to fifty percent will actually submit cases to ViCAP. The time burden of the respondents is less than 60 minutes per form.

6. *An estimate of the total public burden (in hours) associated with the collection:* 5,000 annual burden hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: January 14, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–00942 Filed 1–19–16; 8:45 am]

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by the MSHA's Office of Standards, Regulations, and Variances on or before February 19, 2016.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or