

This rule derives from the text of two provisions of the CSA. First, Congress defined “the term ‘practitioner’ [to] mean[] a . . . physician . . . or other person 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.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988).

Thus, the Agency has held that revocation is warranted even where, as here, the state board has suspended (as opposed to revoked) a practitioner’s dispensing authority and that authority may be restored at some point in the future through further proceedings. *See Ramsey* 76 FR at 20036 (citations omitted). As the Agency has held, the controlling question is not whether a practitioner’s license to practice medicine in the state is suspended or revoked; rather, it is whether the Respondent is currently authorized to handle controlled substances in the state. *James L. Hooper*, 76 FR 71371 (2011) (collecting cases), *pet. for rev. denied, Hooper v. Holder*, 481 Fed. Appx. 826 (4th Cir. 2012).

Respondent further argues that I should consider that the Medical Board’s case “rested entirely on unsworn hearsay evidence in the form of” the CPEP Report and that his expert witness “disagreed with” the Board’s conclusion that he should undergo a “residency-type program to continue practicing. GX 8, at 2. This argument is simply a collateral attack on the State Board proceeding. The Agency has held, however, “that a registrant cannot collaterally attack the result of a state criminal or administrative proceeding in a proceeding under section 304, 21 U.S.C. 824, of the CSA.” *Muzaffer Aslan*, 77 FR 37068, 37069 (2012) (other

citations omitted). “Rather, Respondent’s challenge to the validity of the [New Mexico Board’s] Order must be litigated in the forums provided by the State of [New Mexico], and his contentions regarding the validity of the [Board’s] order are not material to this Agency’s resolution of whether he is entitled to maintain his DEA registration in” New Mexico. *Id.*

Because it is undisputed that Respondent’s New Mexico medical license remains suspended, I find that he no longer has authority under the laws of New Mexico, the State in which he is registered, to dispense controlled substances. Therefore, he is not entitled to maintain his DEA registration. *See* 21 U.S.C. 802(21), 823(f), 824(a)(3). Accordingly, I will order that his registration be revoked and that any pending application to renew or modify his registration be denied.⁶

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration AB5662552, issued to Kenneth Harold Bull, M.D., be, and it hereby is, revoked. I further order that any application of Kenneth Harold Bull, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.⁷

Dated: January 18, 2016.

Chuck Rosenberg,

Acting Administrator.

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⁶ While Respondent also asked that I delay the resolution of this matter, “in circumstances similar to those raised by Respondent, DEA has repeatedly denied requests to stay the issuance of a final order of revocation, noting that [u]nder the Controlled Substances Act, a practitioner must be currently authorized to handle controlled substances in the jurisdiction in which [he] practices in order to maintain [his] DEA registration.” *Gregory F. Saric*, 76 FR 16821, 16822 (2011) (internal quotations and citations omitted). Of further note, Respondent’s state medical license was suspended more than 18 months ago, and yet his license still remains suspended.

Finally, while Respondent asserts that New Mexico is a medically underserved area, in the case of individual practitioners, DEA has held that community impact evidence is irrelevant in the public interest determination as it is in a proceeding based on a loss of state authority. *See Linda Sue Cheek*, 76 FR 66972, 66972 (2011); *Gregory Owens*, 74 FR 36751, 36757 (2009). So too, Respondent’s statement regarding his acceptance of responsibility is not a defense to a revocation based on the loss of state authority, because the CSA mandate that a practitioner possess such authority to obtain and maintain a DEA registration.

⁷ Based on the findings of fact and conclusions of law which led the NMMB to immediately suspend Registrant’s license until he successfully completes Board approved re-training,” GX 4, at 1; I conclude that the public interest requires that this Order be effective immediately. *See* 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Partial Consent Decree Under the Clean Water Act

On January 28, 2016, the Department of Justice lodged a proposed Partial Consent Decree with the United States District Court for the Northern District of Mississippi in the lawsuit entitled *United States and the State of Mississippi v. City of Greenville, Mississippi*, Civil Action No. 4:16–cv–00018–DMB–JMV.

The United States and the State of Mississippi filed this lawsuit under the Clean Water Act and the Mississippi Air and Water Pollution Control Law. The complaint seeks injunctive relief and civil penalties for violations in connection with the City’s sanitary sewer system. The City has grouped mini-systems within the sewer system into three different groups and prioritized Sewer Group 1 and Sewer Group 2 for sewer assessment and rehabilitation work. The Partial Consent Decree provides for the City to conduct early action projects; capacity, management, operations, and maintenance program; and assessment and rehabilitation of Sewer Groups 1 and 2. The partial settlement will not resolve the claims for civil penalties or for injunctive relief related to Sewer Group 3, as those will be the topics of future negotiation among the parties.

The publication of this notice opens a period for public comment on the Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Mississippi v. City of Greenville, Mississippi*, D.J. Ref. No. 90–5–1–1–10932. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Partial Consent Decree may be examined and downloaded at this Justice Department Web site: <http://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Partial Consent Decree upon written

request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$60.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the appendices, the cost is \$14.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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DEPARTMENT OF JUSTICE

[OMB Number 1121–0302]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of a Previously Approved Collection for Which Approval has Expired: 2016 Supplemental Victimization Survey (SVS)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting 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.

DATES: Comments are encouraged and will be accepted for 60 days until April 4, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jennifer Truman or Rachel Morgan, Statisticians, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: Jennifer.Truman@usdoj.gov; telephone: 202–514–5083; email: Rachel.Morgan@usdoj.gov; telephone: 202–616–1707).

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:* Reinstatement of the Supplemental Victimization Survey (SVS), with change, to a previously approved collection for which approval has expired.

(2) *The Title of the Form/Collection:* 2016 Supplemental Victimization Survey (SVS)

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number for the questionnaire is SVS–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be persons 16 years or older living in households located throughout the United States sampled for the National Crime Victimization Survey (NCVS). The SVS will be conducted as a supplement to the NCVS in all sample households for a six (6) month period. The SVS is primarily an effort to measure the prevalence of stalking victimization among persons, the types of stalking victimization experienced, the characteristics of stalking victims, the nature and consequences of stalking victimization, and patterns of reporting to the police. BJS plans to publish this information in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and

others interested in criminal justices statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimate of the total number of respondents is 111,960. About 98.5% (110,280) will have no stalking victimization and will complete the short interview with an average burden of four (4) minutes. Among the 1.5% of respondents (1,679) who experience stalking victimization, the time to ask the detailed questions regarding the aspects of their stalking victimization is estimated to take an average of 8.25 minutes. Respondents will be asked to respond to this survey only once during the six month period. The burden estimates are based on data from the prior administration of the SVS.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 7,583 total burden hours associated with this collection.

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: February 1, 2016.

Jerri Murray,

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

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0002]

Federal Advisory Council on Occupational Safety and Health (FACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of FACOSH meeting.

SUMMARY: The Federal Advisory Council on Occupational Safety and Health (FACOSH) will meet Thursday, February 18, 2016, in Washington, DC.

DATES: *FACOSH meeting:* FACOSH will meet from 1 to 4:30 p.m., Thursday, February 18, 2016.

Submission of comments, requests to speak, speaker presentations, and requests for special accommodations: