

While some isolated decisions of this Agency may suggest that a practitioner who committed only a few acts of diversion was entitled to regain his registration even without having to accept responsibility for his misconduct, *see Anant N. Mauskar*, 63 FR 13687, 13689 (1998), the great weight of the Agency's decisions are to the contrary. In any event, the increase in the abuse of prescription controlled substances calls for a clarification of this Agency's policy. Because of the grave and increasing harm to public health and safety caused by the diversion of prescription controlled substances, even where the Agency's proof establishes that a practitioner has committed only a few acts of diversion, this Agency will not grant or continue the practitioner's registration unless he accepts responsibility for his misconduct.<sup>8</sup> Put another way, even where the Government proves only a few instances of illegal prescribing in the "entire corpus" of a practitioner's experience, the Government has nonetheless made out a *prima facie* case and thus shifted the burden to the registrant to show why he should be entrusted with a new registration.<sup>9</sup>

I have abided by the judgment of the Court of Appeals in this matter. However, some may interpret the Court's decision as suggesting that "the entire corpus" of a practitioner's record in dispensing controlled substances can outweigh a practitioner's intentional acts of diversion where DEA only proves that a few acts of diversion have occurred.

The Court's decision was not published and the Court did not instruct the Agency as to how much weight the entire corpus should be given. Nor did the Court explain whether "the entire corpus" should be considered as part of the Government's *prima facie* case, or as part of the registrant's rebuttal of the Government's case.

now kill about 500 people a year in the Tampa Bay area, triple the number killed by illegal drugs such as cocaine and heroin." Chris Tisch & Abbie Vansickle, *Deadly Combinations*, St. Petersburg Times (Feb. 17, 2008), at 1. This article further noted that while at the time of publication, the figures for the year 2007 were not complete, "the area is on pace for about 550 deaths," and that "prescription drug overdoses are likely to overtake car crashes as the leading cause of accidental death." *Id.* In contrast, in 2006, 433 people died of prescription drug overdoses, and in 2005, 339 died. *Id.* According to the Circuit Judge who runs the Pinellas County drug court, "This has become an epidemic." *Id.*

<sup>8</sup> Depending upon the facts and circumstances, a registrant/applicant may also be required to show what corrective measures he/she has instituted to prevent such acts from re-occurring.

<sup>9</sup> To the extent *Mauskar*, or any other decision of this Agency suggests otherwise, it is overruled.

DEA therefore does not interpret the decision as altering the manner in which similar arguments have been dealt with in prior cases. While such evidence may have some probative value, it does not negate a *prima facie* showing that a registrant/applicant has committed acts that are inconsistent with the public interest. It may, however, be entitled to some weight in assessing whether a registrant/applicant has demonstrated that she can be entrusted with a new registration where the Government's proof is limited to relatively few acts and a registrant puts forward credible evidence that she has accepted responsibility for her misconduct.

#### 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 the DEA Certificate of Registration issued to Jayam Krishna-Iyer, M.D., be, and it hereby is, suspended. I further order that the suspension shall be retroactive and limited to the period beginning on October 2, 2006, and ending on October 2, 2007, when her registration was restored pursuant to the judgment of the Court of Appeals. I further order that the application of Jayam Krishna-Iyer, M.D., for renewal of her registration be, and it hereby is, granted subject to the condition that she file monthly reports with the Special Agent in Charge (or his designee) of the Miami Field Division for a period of one year. The reports shall list all controlled substances prescribed by the patient's name, the date, the name of the drug, its strength, the quantity prescribed, and the number of refills authorized. The reports shall be due no later than the tenth day of the subsequent month and shall list all patients in alphabetical order.<sup>10</sup> Failure to comply with the terms of this Order shall be grounds for the suspension or revocation of Respondent's registration. This Order is effective immediately.

Dated: December 19, 2008.

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

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<sup>10</sup> If a patient received multiple prescriptions, all prescriptions issued to the patient within the calendar month shall be listed before the prescriptions for the next patient are reported.

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

#### Proposed Collection, Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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. The Bureau of Labor Statistics (BLS) is soliciting comments on the proposed extension of the Labor Market Information (LMI) Cooperative Agreement application package. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before March 9, 2009.

**ADDRESSES:** Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202-691-7099. (This is not a toll free number.)

**FOR FURTHER INFORMATION CONTACT:** Carol Rowan, BLS Clearance Officer, telephone number 202-691-7099. (See **ADDRESSES** section.)

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The BLS enters into Cooperative Agreements with State Workforce Agencies (SWAs) annually to provide financial assistance to the SWAs for the production and operation of the following LMI statistical programs: Current Employment Statistics, Local Area Unemployment Statistics, Occupational Employment Statistics, Quarterly Census of Employment and Wages, and Mass Layoff Statistics. The Cooperative Agreement provides the basis for managing the administrative and financial aspects of these programs.

The existing collection of information allows Federal staff to negotiate the Cooperative Agreement with the SWAs and monitor their financial and programmatic performance and adherence to administrative requirements imposed by common regulations implementing OMB Circular A-102 and other grant related regulations. The information collected also is used for planning and budgeting at the Federal level and in meeting Federal reporting requirements.

The Cooperative Agreement application package being submitted for approval is representative of the package sent every year to state agencies. The work statements included in the Cooperative Agreement application also are representative of what is included in the whole LMI Cooperative Agreement package. The final Cooperative Agreement, including the work statements, will be submitted separately to the Office of Management

and Budget for review of any minor year-to-year information collection burden changes these documents may contain.

**II. Current Action**

The BLS requests clearance for the LMI Cooperative Agreement from the Office of Management and Budget. The BLS is requesting an extension of the existing clearance for the LMI Cooperative Agreement package.

**III. Desired Focus of Comments**

The BLS 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.
- 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 submissions of responses.

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

*Agency:* Bureau of Labor Statistics.

*Title:* Labor Market Information (LMI) Cooperative Agreement.

*OMB Number:* 1220-0079.

*Affected Public:* State, Local, or Tribal Governments.

*Frequency:* Monthly, quarterly, annually.

Information collection	Respondents	Frequency	Responses	Time	Total hours
Work Statements .....	55	1	55	1-2 hr.	55-110
BIF (LMI 1A, 1B) .....	55	1	55	1-6 hr.	55-330
Quarterly Automated Financial Reports .....	48	4	192	10-50 min.	32-160
Monthly Automated Financial Reports .....	48	8	384	5-25 min.	32-160
BLS Cooperative Statistics Financial Report (LMI 2A) .....	7	12	84	1-5 hr.	84-420
Quarterly Status Report (LMI 2B) .....	1-30	4	4-120	1 hr.	4-120
Budget Variance Request Form .....	1-55	1	1-55	5-25 min.	0-23
<b>Total .....</b>	<b>1-55</b>	<b>.....</b>	<b>775-945</b>	<b>.....</b>	<b>262-1,323</b>
<b>Average Totals .....</b>	<b>55</b>	<b>.....</b>	<b>860</b>	<b>.....</b>	<b>793</b>

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintenance):* \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 30th day of December 2008.

**Kim Hill,**

*Acting Chief, Division of Management Systems, Bureau of Labor Statistics.*

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**DEPARTMENT OF LABOR**

**Employment and Training Administration**

[TA-W-63,880; TA-W-63,880A; TA-W-63,880B; TA-W-63,880C; TA-W-63,880D; TA-W-63,880E]

**Cequent Electrical Products, Inc. Tekonsha, MI; Including Employees in Support of Cequent Electrical Products, Inc., Tekonsha, MI, Working in the Following Locations: Washougal, WA, West Linn, OR, Temecula, CA, Urbandale, IA, Weston, WI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment

Assistance on November 26, 2008, applicable to workers of Cequent Electrical Products, Inc., Tekonsha, Michigan. The notice was published in the **Federal Register** on December 10, 2008 (73 FR 75137).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of brake controls, breakaway kits and lights for the automotive and trailer industries.

New information shows that worker separations have occurred involving employees of the Tekonsha, Michigan facility of Cequent Electrical Products, Inc. working out of Washougal, Washington; West Linn, Oregon; Temecula, California; Urbandale, Iowa; and Weston, Wisconsin. Mr. Larry Kelley, Ms. Susan Savage, Mr. Paul Crommelin, Mr. Charles Voorhis and Mr. Michael Vruwink provided sales functions supporting the production of brake controls, breakaway kits and lights for the automotive and trailer