

(Indictment). The indictment charged Registrant with one count of conspiring with M.L.A. and M.I.R. (two of the clinic's staff) to distribute oxycodone, a controlled substance, "[f]rom on or before June 29, 2009 to on or about September 9, 2009," in violation of 21 U.S.C. 841(a)(1) and 846. *Id.* The indictment further charged Registrant with five counts of dispensing oxycodone (on July 13 and 30, August 6 and 27, and September 9, 2009), a controlled substance, in violation of 21 U.S.C. 841(a)(1). *Id.*

On March 11, 2010, a Federal Grand Jury issued a superseding indictment. *United States v. Algirdas Krisciunas and Maria Teresa Bulich*, Superseding Indictment (S.D. Fla. Mar. 11, 2010), No. 10-60007-CR-HURLEY(s). The new indictment charged Registrant and his wife with conspiring to unlawfully dispense oxycodone; it also charged Registrant and his wife with unlawfully dispensing oxycodone on each of the five dates as charged in the initial indictment. *Id.* at 1-3 (citing 21 U.S.C. 841(a)(1), 846).

Thereafter, Registrant went to trial. On July 6, 2010, a jury found Registrant guilty on all six counts. *U.S. v. Algirdas Krisciunas*, Verdict (July 6, 2010). On October 13, 2010, the District Court entered its Judgment adjudicating Registrant guilty on all six counts and sentenced him to 97 months imprisonment to be followed by three years of supervised release. *U.S. v. Algirdas Krisciunas*, Judgment (Oct. 13, 2010).

Based on Registrant's convictions, on August 20, 2010, the Florida Surgeon General ordered the summary suspension of his medical license. Order of Emergency Suspension of License, at 2-3 (citing Fla. Stat. § 456.074(1)).

### Discussion

Section 304(a) of the CSA provides that a "registration pursuant to section 823 of this title to \* \* \* dispense a controlled substance \* \* \* may be suspended or revoked by the Attorney General upon a finding that the registrant \* \* \* has been convicted of a felony under this subchapter or subchapter II of this chapter \* \* \* relating to any substance defined in this subchapter as a controlled substance." 21 U.S.C. 824(a)(2). Section 304(a) further provides that a registration may be revoked or suspended where a registrant "has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law

to engage in the \* \* \* dispensing of controlled substances." *Id.* § 842(a)(3).

As found above, the United States District Court has adjudicated Registrant guilty of one count of conspiring to unlawfully distribute oxycodone, a schedule II controlled substance, in violation of 21 U.S.C. 846, and five counts of unlawfully dispensing oxycodone, in violation of 21 U.S.C. 841(a)(1). Both provisions are felonies under the CSA. *See* 21 U.S.C. 841(b)(1)(C) (except as otherwise provided, "[i]n the case of a controlled substance in schedule I or II \* \* \* such person shall be sentenced to a term of imprisonment of not more than 20 years"); *id.* § 846 ("Any person who \* \* \* conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the \* \* \* conspiracy."). Registrant's convictions for these offenses provide reason alone to revoke his registration and denied any pending applications. 21 U.S.C. 824(a)(2).

I further conclude that Registrant's registration should be revoked on the ground that the State of Florida has suspended his State medical license and thus, he no longer has authority to dispense controlled substances in the State. 21 U.S.C. 824(a)(3). The CSA defines the term "practitioner" as a person "licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices \* \* \* to distribute, dispense \* \* \* [or] administer \* \* \* a controlled substance in the course of professional practice." *Id.* § 802(21). Likewise, the CSA limits registration to an applicant who is "authorized to dispense \* \* \* controlled substances under the laws of the State in which he practices." *Id.* § 823(f). Based on these provisions, DEA has held repeatedly that a practitioner whose State authority to dispense controlled substances has been suspended or revoked is not entitled to maintain his CSA registration. *See John B. Freitas*, 74 FR 17524, 17525 (2009); *Worth S. Wilkinson*, 71 FR 30173 (2006); *Stephen J. Graham*, 69 FR 11661, 11662 (2004); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988). I therefore conclude that

<sup>7</sup> Section 304(a)(4) also provides for the suspension or revocation of a registration "upon a finding that the registrant \* \* \* has committed such acts as would render his registration \* \* \* inconsistent with the public interest as determined under \* \* \* section" 823(f). 21 U.S.C. 824(a)(4). In light of my finding that Registrant has been convicted of six felony counts of violating the CSA, I conclude that it is not necessary to discuss the applicability of this provision to his misconduct.

Registrant's loss of his State authority provides a further ground to revoke his registration and to deny any pending application to renew or modify his registration.

### Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as by 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration, BK4015334, issued to Algirdas J. Krisciunas, M.D., be, and it hereby is, revoked. I further order that any pending application of Algirdas J. Krisciunas, M.D., to renew or modify his registration be, and it hereby is, denied. This Order is effective immediately.<sup>8</sup>

Dated: January 18, 2011.

**Michele M. Leonhart**,  
Administrator.

[FR Doc. 2011-1693 Filed 1-26-11; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. OSHA-2010-0030]

#### Ionizing Radiation Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Ionizing Radiation Standard (29 CFR 1910.1096). The information collection requirements contained in the Ionizing Radiation Standard protect workers from the adverse health effects that may result from occupational exposure to ionizing radiation including tissue damage and cancer.

**DATES:** Comments must be submitted (postmarked, sent, or received) by March 28, 2011.

**ADDRESSES:** *Electronically:* You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

<sup>8</sup> For the same reason that I ordered the immediate suspension of Registrant's registration, I conclude that the public interest requires that this Order be effective immediately. 21 CFR 1316.67.

**Facsimile:** If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

**Mail, hand delivery, express mail, messenger, or courier service:** When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2010-0030, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

**Instructions:** All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA-2010-0030). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

**Docket:** To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney or Todd Owen at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:** Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program

ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The basic purpose of the information collection requirements in the Standard is to document that employers are providing their workers with protection from hazardous ionizing radiation exposure.

Several provisions of the Standard specify paperwork requirements, including: Monitoring of worker exposure to ionizing radiation, instructing workers on the hazards associated with ionizing radiation exposure and precautions to minimize exposure, posting of caution signs at radiation areas, reporting of worker overexposures to OSHA, maintaining exposure records, and providing exposure records to current and former workers.

##### **II. Special Issues for Comment**

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

##### **III. Proposed Actions**

OSHA is requesting that OMB extend its approval of the information collection requirements specified in the Ionizing Radiation Standard. The

Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

OSHA is requesting a 5,686 increase in burden hours from the current level of 39,531 hours to 45,217 hours. This request is being made because of the increased growth rate from previous estimates of exposed workers and of workers being monitored by employers. There is an adjustment increase in the estimated total cost from \$2,341,440 to \$5,691,144. This increase is a result of a rise in the cost of whole body monitoring and extremity monitoring badges.

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

**Title:** Ionizing Radiation Standard (29 CFR 1910.1096).

**OMB Number:** 1218-0103.

**Affected Public:** Business or other for-profits; not-for-profit institutions; Federal Government; State, Local or Tribal Governments.

**Number of Respondents:** 12,719.

**Frequency:** On Occasion; quarterly; annually; immediately; within 24 hours; within 30 days.

**Total Responses:** 256,914.

**Average Time per Response:** Time per response varies from 5 minutes (.08 hour) to maintain radiation exposure records to 20 minutes (.5 hours) for employers to gather and prepare training materials, and maintaining, compiling, and sending records to the worker.

**Estimated Total Burden Hours:** 45,217.

**Estimated Cost (Operation and Maintenance):** \$5,691,144.

##### **IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions**

You may submit comments in response to this document as follows:

- (1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal;
- (2) by facsimile; or
- (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA-2010-0030). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

#### V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 4-2010 (75 FR 55355).

Signed at Washington, DC, on January 21, 2011.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

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**BILLING CODE 4510-26-P**

## DEPARTMENT OF LABOR

### Wage and Hour Division

**RIN 1235-0005**

#### Proposed Extension of the Approval of Information Collection Requirements

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance 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. 3056(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. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Notice to Examinee, Employee Polygraph Protection Act. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 28, 2011.

**ADDRESSES:** You may submit comments identified by Control Number 1235-0005, by either one of the following methods: *E-mail:*

*WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

**FOR FURTHER INFORMATION CONTACT:** Mary Ziegler, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693-0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by

calling (202) 693-0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Wage and Hour Division (WHD) of the Department of Labor (DOL) administers the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. 2001 *et seq.* The EPPA prohibits most private employers from using any lie detector tests either for pre-employment screening or during the course of employment. The Act contains an exemption applicable to Federal, State and local government employers. The EPPA also contains several limited exemptions authorizing polygraph tests under certain conditions, including testing: (1) By the Federal Government of experts, consultants, or employees of Federal contractors engaged in national security intelligence or counterintelligence functions; (2) of employees the employer reasonably suspects of involvement in a workplace incident resulting in economic loss or injury to the employer's business; (3) of some prospective employees of private armored cars, security alarm and security guard firms; and (4) of some current and prospective employees of certain firms authorized to manufacture, distribute, or dispense controlled substances. The WHD may assess civil money penalties of up to \$10,000 against employers who violate any EPPA provision.

##### II. Review Focus

The Department of Labor 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;
- 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.