

DEPARTMENT OF JUSTICE

[OMB Number 1103–NEW]

Agency Information Collection Activities; Proposed New Collection; Comments Requested: COPS Comparative Assessment of Cost Reduction by Agencies Survey**ACTION:** 60-Day Notice of Information Collection Under Review.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) 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. The proposed information collection is published to obtain comments from the public and affected agencies. The purpose of this notice is to allow for 60 days for public comment until January 14, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have 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 Danielle Ouellette, Department of Justice, Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530.

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 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed new collection; comments requested.

(2) *Title of the Form/Collection:* COPS Comparative Assessment of Cost Reduction by Agencies Survey.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Law enforcement agencies and other public and private entities that apply for COPS Office grants or cooperative agreements will be asked complete the COPS Comparative Assessment of Cost Reduction Survey. The survey will be used to review the approaches currently adopted by police agencies that reduce organizational and operational costs and will provide information about how these strategies have been implemented and evaluated. The survey allows for the identification of agencies that have undertaken extensive changes in programs to maintain their service delivery levels or to increase service efficiency and effectiveness while facing budget restraints.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 268 respondents annually will complete the form within .42 hours (25 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 113 total annual 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, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: November 8, 2012.

Jerri Murray,

Department Clearance Officer for PRA, Department of Justice.

[FR Doc. 2012–27691 Filed 11–14–12; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 12–51]

Karen Paul Holley, M.D.; Decision and Order

On July 27, 2012, Chief Administrative Law Judge John J. Mulrooney, Jr., issued the attached Recommended Decision. Neither party filed exceptions to the Recommended Decision.

Having reviewed the entire record, I have decided to adopt the ALJ's findings of fact, conclusions of law, and recommended order. Accordingly, I will order that Respondent's DEA Certificate of Registration be revoked and that any pending application to renew or modify her registration be denied.

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 Number BH8988339, issued to Karen P. Holley, M.D., be, and it hereby is, revoked. I further order that any pending application of Karen P. Holley, M.D., to renew or modify her registration, be, and it hereby is, denied. This Order is effective December 17, 2012.

Dated: October 26, 2012.

Michele M. Leonhart,
Administrator.

Theresa Krause, Esq., for the Government

John H. Musser, IV, Esq., for the Respondent

Order Granting the Government's Motion for Summary Disposition and Recommended Decision

Chief Administrative Law Judge John J. Mulrooney, Jr. The Deputy Assistant Administrator, Drug Enforcement Administration (Government), issued an Order to Show Cause (OSC), dated May 21, 2012, proposing to revoke the DEA Certificate of Registration (COR), Number BH8988339, of Karen Paul Holley, M.D. (Respondent), pursuant to 21 U.S.C. 824(a)(3) and (4) (2006), and to deny any pending applications for renewal or modification of such registration, pursuant to 21 U.S.C. 823(f). In the OSC, the Government alleges that revocation is necessary because the Respondent is "without authority to handle controlled substances in the State of Louisiana," the state of the Respondent's registration. OSC, at 1–2.

On July 3, 2012, the DEA Office of Administrative Law Judges (OALJ)

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”).¹ At this juncture, no genuine dispute exists

¹ 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