

represents that since the date of service, neither Registrant, nor any person purporting to represent him, has requested a hearing or submitted a written statement while waiving his right to a hearing. *See* Govt. Req. for Final Agency Action, at 3–4. Because more than thirty (30) days have now passed since the date of service of the Show Cause Order and Registrant has neither requested a hearing nor submitted a written statement in lieu of a hearing, I find that he has waived his right to either request a hearing or to submit a written statement. 21 CFR 1301.43(d). I therefore issue this Decision and Final Order based on the record submitted by the Government. *Id.* § 1301.43(e). I make the following findings.

Findings

Registrant is the holder of DEA Certificate of Registration AM1585770, pursuant to which he is authorized to dispense controlled substances in schedules II–V as a practitioner, at the registered address of 1206 E. 9th St., Suite 210, Lockport, Illinois. GX 2. His registration does not expire until January 31, 2018. *Id.*

On March 5, 2015, the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation, ordered the suspension of Respondent's Illinois Physician and Surgeon License, as well as his state Controlled Substance Licenses, pending proceedings before the Department of Financial and Professional Regulation and the Medical Disciplinary Board of the State. GX 4 at 1. I take official notice that as of this date, the public Web site maintained by the Illinois Department of Financial and Professional Regulation shows that Registrant's Physician and Surgeon License as well as his Illinois Controlled Substance Licenses remain suspended based on the State's allegations that he engaged in "unprofessional conduct, aid[ed] and abet[ed] [the] unlicensed practice of medicine and [committed] multiple violations of the Controlled Substance Act."¹ *See* <https://ilesonline.idfpr.illinois.gov/DPR/Lookup/LicenseLookup.aspx>.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823, "upon a finding that

the registrant . . . has had his State license or registration suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." Moreover, DEA has repeatedly held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. App'x 826 (4th Cir. 2012).

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 . . . to dispense . . . controlled substances . . . 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 long held that the 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).

This is so even where a state board has suspended a practitioner's authority prior to providing the practitioner with a hearing to contest the board's allegations. *See Gary Alfred Shearer*, 78 FR 19009 (2013) (holding that revocation is warranted even where a state order has summarily suspended a practitioner's controlled substances authority and the state agency's order remains subject to challenge in either administrative or judicial proceedings); *see also Bourne Pharmacy, Inc.*, 72 FR 18273, 18274 (2007); *Winfield Drugs, Inc.*, 52 FR 27070 (1987). Accordingly, consistent with agency precedent, the revocation of Registrant's registration is warranted.

Because Registrant currently lacks authority to dispense controlled substances in Illinois, the State in which he holds his DEA registration, I will order that his registration be revoked and that any pending applications be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 21 CFR 0.100(b), I order that DEA Certificate of Registration AM1585770, issued to William Mikaitis, M.D., be, and it hereby is, revoked. I further order that any pending application of William Mikaitis, M.D., to renew or modify his registration, as well as any other pending application of William Mikaitis, M.D., for a DEA Certificate of Registration, be, and it hereby is, denied. This Order is effective immediately.²

Dated: November 17, 2015

Chuck Rosenberg,
Acting Administrator.

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DEPARTMENT OF JUSTICE

[OMB Number 1117-0034]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Extension Without Change of a Previously Approved Collection; Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local Government) Crime Laboratories

AGENCY: Drug Enforcement Administration, Department of Justice.
ACTION: 60-day Notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), 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 January 25, 2016.

FOR FURTHER INFORMATION CONTACT: If you have comments on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection

¹ Under the Administrative Procedure Act (APA), an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." U.S. Dept. of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

² Based on the State's finding "that Respondent's actions constitute an immediate danger to the public," I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

instrument with instructions or additional information, please contact Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

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 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information proposed 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 forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection

1. Type of Information Collection:

Extension of a currently approved collection.

2. Title of the Form/Collection:

Collection of Laboratory Analysis Data on Drug Samples Tested by Non-Federal (State and Local Government) Crime Laboratories.

3. The agency form number, if any, and the applicable component of the Department sponsoring the collection:

There are no applicable forms associated with this collection. The applicable component within the Department of Justice is the Drug Enforcement Administration, Office of Diversion Control.

4. Affected public who will be asked or required to respond, as well as a brief abstract:

Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

Abstract: This collection provides the Drug Enforcement Administration (DEA) with a national database on analyzed drug evidence from non-federal laboratories. Information from

this database is combined with the other existing databases to develop more accurate, up-to-date information on abused drugs. This database represents a voluntary, cooperative effort on the part of participating laboratories to provide a centralized source of analyzed drug data.

5. An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The DEA estimates that 140 persons annually for this collection at 1.6 hour per respondent, for an annual burden of 218 hours.

6. An estimate of the total public burden (in hours) associated with the proposed collection: The DEA estimates that this collection takes 218 annual burden hours.

If additional information is required please 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., Suite 3E.405B, Washington, DC 20530.

Dated: November 20, 2015.

Jerri Murray,

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

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DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement Under the Clean Water Act

Notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Settlement Agreement and Final Judgment on Consent ("Settlement Agreement") in *United States v. ATP Oil & Gas Corp. et al.* (Civil Action No. 2:13-cv-0262), which was lodged with the United States District Court for the Eastern District of Louisiana on November 19, 2015.

The Complaint in this case was filed against ATP Oil & Gas Corporation ("ATP") and ATP Infrastructure Partners, LP ("ATP-IP") in February 2013. The Complaint seeks civil penalties and injunctive relief under the Clean Water Act ("CWA") and injunctive relief under the Outer Continental Shelf Lands Act ("OCSLA") related to unauthorized discharges of oil and chemicals from an oil platform, the ATP Innovator, into the Gulf of Mexico. ATP is going through a Chapter 7 bankruptcy proceeding and is no longer operating.

Under the proposed Settlement Agreement, ATP agrees to a final civil penalty judgment of \$38 million for multiple alleged violations of the Clean Water Act. The penalty judgment will be treated as an allowed unsecured claim in ATP's bankruptcy proceeding. A prior settlement approved by the district court in May 2015 resolved the claims against ATP-IP and secured penalties as well as OCSLA and CWA injunctive relief related to the safe future operation of the ATP Innovator in U.S. waters.

The publication of this notice opens a period for public comment on the proposed Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. ATP Oil & Gas Corp. et al.* (Civil Action No. 2:13-cv-0262), D.J. Ref. No. 90-5-1-1-10681/1. 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:

| <i>To submit comments:</i> | <i>Send them to:</i> |
|----------------------------|--|
| By e-mail | <i>pubcomment-ees.enrd@usdoj.gov.</i> |
| By mail | Assistant Attorney General U.S. DOJ-ENRD P.O. Box 7611 Washington, D.C. 20044-7611. |

During the public comment period, the proposed Settlement Agreement 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 proposed 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 \$3.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas P. Carroll,

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

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