

misconduct for a year, during which time he likely issued between 800 to 1,200 prescriptions. Yet the record does not establish the extent to which these prescriptions were for controlled substances.<sup>43</sup>

I acknowledge that proceedings under Section 304 are non-punitive. But even were I to ignore that Respondent has not accepted responsibility for his misconduct, and credit his testimony that he did not intend to resume his internet practice, I would still conclude that a lengthy suspension of his registration is warranted.

As found above, the diversion and abuse of prescription drugs has increased dramatically, with the number of people admitting to such abuse (approximately 15.1 million) exceeding by twenty-three percent, the number who abuse cocaine, hallucinogens, inhalants and heroin combined. Moreover, the growth rate of prescription drug abuse is twice the growth rate of marijuana abuse and five times the growth rate of cocaine abuse; between 1992 and 2002, the growth in prescription opioid abuse among teenagers grew by 542 percent.

The use of the internet and telephone to prescribe to individuals with whom a physician has not established a bona fide doctor-patient relationship is one of the primary means by which controlled substances are being diverted and obtained for recreational abuse. The growth of this means of diversion represents a grave threat to public health and safety. Accordingly, this Agency has repeatedly revoked the registrations of numerous practitioners who have committed similar acts by prescribing over the internet without establishing legitimate doctor-patient relationships. *See, e.g., Kamir Garcés-Mejías*, 72 FR 54931 (2007); *William Lockridge*, 71 FR 77791 (2006); *Mario Diaz*, 71 FR 70788 (2006). The ALJ did not, however, even acknowledge any of the numerous Agency decisions to this effect.

Respondent maintains that his case is distinguishable from these and other reported decisions involving internet

prescribers because he “genuinely believed \* \* \* that he was practicing medicine properly and effectively[,]” and “genuinely made a good faith effort to do so.” Response to Gov.’s Exceptions at 10. He also contends that he “is an extraordinarily dedicated and tireless physician who saw the internet as a way to care for more patients,” and that while he “can be faulted” for “having trusted colleagues and new business associates when he should have been more skeptical,” “the price should not be his career.” *Id.* at 14.

It is true that in other Agency decisions revoking the registrations of internet prescribers, the evidence strongly supported the conclusion that the physicians were engaged in intentional acts of diversion. Here, by contrast, the evidence does not establish that he knowingly distributed controlled substances to those who were seeking the drugs to abuse them or to sell them to abusers. His conduct—which is extraordinary for its recklessness—nonetheless violated the CSA.

Continuing Respondent’s registration, subject only to the condition that he refrain from prescribing over the Internet, is no sanction at all given the numerous state laws and new Federal law which prohibit this practice in the manner Respondent engaged in it. Adopting the ALJ’s recommendation would not only “ignore how irresponsibly [Respondent] acted,” *Southwood*, 71 FR at 36503; it would also signal to others that one can ignore the law (and his obligation to determine what the law is) and yet incur no consequence for having done so. Given the extraordinary harm to public health and safety caused by internet prescribing, this is not the message that should be sent to those who contemplate prescribing controlled substances in this manner. Rather, such persons should understand that they are responsible for knowing the law and acting in conformity therewith, and that there will be serious consequences for those who fail to do so.

Accordingly, I conclude that Respondent’s registration should be suspended for a period of one year. Moreover, Respondent’s pending application for renewal of his registration will be held in abeyance during the course of the suspension. Upon completion of the suspension, his application will be approved provided that he fulfills the following condition. Because Respondent has not acknowledged that his internet prescribing practices violated the CSA, he must provide a sworn statement to this effect. If Respondent complies with this condition (and he commits no other

acts which would warrant the denial of his application), the Agency will expeditiously grant his renewal application. If, however, if he fails to do so, his application will be denied.

#### 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 Joseph Gaudio, M.D., be, and it hereby is, suspended for a period of one year. I further order that Respondent’s pending application to renew his registration be, and it hereby will be, held in abeyance pending the completion of the period of suspension and Respondent’s providing to this Agency a sworn statement acknowledging that his internet prescribing activities violated the Controlled Substances Act and DEA regulations. This Order is effective April 8, 2009.<sup>44</sup>

Dated: February 26, 2009.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. E9–4903 Filed 3–6–09; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Foreign Claims Settlement Commission

#### F.C.S.C. Meeting Notice No. 2–09

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

*Date and Time:* Wednesday, March 18, 2009, at 10:30 a.m.

*Subject Matter:* Issuance of Proposed Decisions, Amended Proposed Decisions, Final Decisions and Orders in claims against Albania.

*Status:* Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room

<sup>43</sup> It is also noted that Respondent continued his internet prescribing for three months after he received the Show Cause Order, even though the Order put him on notice as to the requirements for a lawful prescription under both the CSA and state law. While Respondent did not dispute that he prescribed controlled substances during this period, I do not rely on this conduct in setting the sanction because the Government did not identify a single controlled substance prescription that he issued following the service of the Show Cause Order. If the Government had shown specific instances of Respondent’s prescribing of controlled substances following service of the Order, I would have found that he knowingly diverted controlled substances and revoked his registration.

<sup>44</sup> Respondent can choose to commence serving his suspension earlier by tendering his Certificate of Registration and any order forms he has been issued to the nearest DEA office.

6002, Washington, DC 20579.  
Telephone: (202) 616-6975.

**Mauricio J. Tamargo,**  
*Chairman.*

[FR Doc. E9-4956 Filed 3-5-09; 11:15 am]

**BILLING CODE 4410-01-P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### Maritime Advisory Committee for Occupational Safety and Health (MACOSH)

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

**ACTION:** MACOSH meeting, notice of.

**SUMMARY:** The Maritime Advisory Committee for Occupational Safety and Health (MACOSH) was established to advise the Assistant Secretary of Labor for OSHA on issues relating to occupational safety and health in the maritime industries. The purpose of this **Federal Register** notice is to announce the MACOSH meeting scheduled for March 2009.

**DATES:** The Committee will meet on March 24, 2009, from 8:30 a.m. to 5 p.m.

**ADDRESSES:** The Committee will meet at the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. On Tuesday, March 24, 2009, the committee will meet in conference room N-3437. Mail comments, views, or statements in response to this notice to Danielle Watson, Office of Maritime, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; phone (202) 693-1870; fax: (202) 693-1663.

**FOR FURTHER INFORMATION CONTACT:** For general information about MACOSH and this meeting, contact: Joseph V. Daddura, Director, Office of Maritime, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; phone: (202) 693-2067. Individuals with disabilities wishing to attend the meeting should contact Danielle Watson at (202) 693-1870 no later than March 17, 2009, to obtain appropriate accommodations.

**SUPPLEMENTARY INFORMATION:** All MACOSH meetings are open to the public. All interested persons are invited to attend the MACOSH meeting at the time and location listed above. The MACOSH agenda will include: A presentation on the Federal Advisory Committee Act, and committee ethics training; an OSHA activities update; introduction of the new and returning MACOSH committee members; a review

of the accomplishments from the previous meetings during the last charter; and goals for the next two years, including establishment of the MACOSH workgroups.

**Public Participation:** Written data, views, or comments for consideration by MACOSH on the various agenda items listed above should be submitted to Danielle Watson at the address listed above. Submissions received by March 17, 2009, will be provided to Committee members and will be included in the record of the meeting. Requests to make oral presentations to the Committee may be granted as time permits.

**Authority:** This notice was prepared under the direction of Donald G. Shalhoub, Deputy Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to Sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), Secretary of Labor's Order 5-2007 (72 FR 31159), and 29 CFR part 1912.

Signed at Washington, DC, this 4th day of March, 2009.

**Donald G. Shalhoub,**

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

[FR Doc. E9-4882 Filed 3-6-09; 8:45 am]

**BILLING CODE 4510-26-P**

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2008-8]

#### Notice of Public Hearings: Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of Public Hearings.

**SUMMARY:** The Copyright Office of the Library of Congress will be holding public hearings on the possible exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works. In accordance with the Copyright Act, as amended by the Digital Millennium Copyright Act, the Office is conducting its triennial rulemaking proceeding to determine whether there are particular "classes of works" as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses if they are prohibited from circumventing such technological measures.

**DATES:** The first public hearing will be held in Palo Alto, California on Friday, May 1, 2009, at 9:00 a.m. Public hearings will also be held in Washington, DC on Wednesday, May 6, 2009, Thursday, May 7, 2009, and Friday, May 8, 2009, at 10:00 a.m. Requests to testify must be received by 5:00 p.m. E.D.T. on Friday, April 3, 2009. See **SUPPLEMENTARY INFORMATION** for additional information on other requirements.

**ADDRESSES:** The Palo Alto hearings will be held in the Moot Court Room of the Stanford Law School, Crown Quadrangle, Palo Alto, CA.

The Washington, DC round of public hearings will be held in the Copyright Hearing Room, LM-408 of the James Madison Building of the Library of Congress, 101 Independence Ave, SE., Washington, DC. See **SUPPLEMENTARY INFORMATION** for additional address information and other requirements.

**FOR FURTHER INFORMATION CONTACT:** Robert Kasunic, Principal Legal Advisor, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Washington, DC 20024-0400. Telephone (202) 707-8380; fax (202) 707-8366. Requests to testify may be submitted through the request form available at <http://www.copyright.gov/1201/>.

**SUPPLEMENTARY INFORMATION:** On October 6, 2008, the Copyright Office published a Notice of Inquiry seeking comments in connection with a rulemaking pursuant to section 1201(a)(1) of the Copyright Act, 17 U.S.C. 1201(a)(1), which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumventing a technological measure that controls access to a copyrighted work. 73 FR 58073 (October 6, 2008). On December 29, 2008, the Copyright Office published a Notice of Proposed Rulemaking listing the proposed exemptions and requesting responsive comments. 73 FR 79425 (December 29, 2008). For all of the documents submitted and published within the current rulemaking proceeding, and for a more complete statement of the background and purpose of the rulemaking, please see the Copyright Office's website at: <http://www.copyright.gov/1201/>. The 19 initial written comments proposing classes of works to be exempted and the 56 responsive comments also have been posted on the Office's website; see <http://www.copyright.gov/1201/>.

The Office will be conducting public hearings in Palo Alto, California and Washington, DC to hear testimony