

controlled substances in \* \* \* Arizona, the [S]tate in which [he is] registered with DEA.” Show Cause Order at 1 (citing 21 U.S.C. 824(a)(3)). The Show Cause Order also notified Registrant of his right to either request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedures for doing either, and the consequences if he failed to do either. *Id.* at 2 (citing 21 CFR 1301.43(a), (c)–(e)).

The Government initially attempted to serve Registrant with the Order to Show Cause by certified mail addressed to him at his registered location. However, this mailing was returned unclaimed with the notations: “No City Delivery” and “Requires PO Box Number.” GX 3. On March 8, 2011, the Government served the Show Cause Order on Registrant by certified mail addressed to him at an address he had previously provided to the Agency for receiving mail.<sup>1</sup> GX 4. The Investigative Record includes a signed return receipt card establishing service. *Id.*

Since the date of service of the Show Cause Order, neither Registrant, nor anyone purporting to represent him, has either requested a hearing or submitted a written statement in lieu thereof. Because more than thirty days have now passed since service of the Show Cause Order, I find that Registrant has waived his right to either request a hearing or to submit a written statement. I therefore issue this Decision and Final Order based on relevant evidence contained in the Investigative Record submitted by the Government.

### Findings

Registrant is the holder of DEA Certificate of Registration MB1048746, which authorizes him to dispense controlled substances in schedules II through V as a mid-level practitioner, at the registered address of 112 Ash Park Drive, Ash Fork, AZ. GX 1. Registrant’s registration does not expire until July 31, 2012. *Id.*

Registrant is also the holder of a license issued by the Arizona Regulatory Board of Physician Assistants which formerly authorized him to perform health care tasks in Arizona. GX 6, at 1. However, according to a Consent Agreement which Registrant entered into with the Board on March 26, 2010, Registrant “has a medical condition that may limit his ability to safely engage in the

performance of health care tasks.”<sup>2</sup> *Id.* Accordingly, the Board ordered that Registrant’s practice be “limited in that he shall not perform health care tasks in the State of Arizona and is prohibited from prescribing any form of treatment including prescription medication until [he] applies to the Board and receives permission to do so.” *Id.* at 2. I therefore find that Registrant is without authority to dispense controlled substances under the laws of the State of Arizona, the State in which he holds his DEA registration.

### Discussion

The Controlled Substances Act (CSA) grants the Attorney General authority to revoke a registration “upon a finding that the registrant \* \* \* has had his State license or registration suspended [or] revoked \* \* \* and is no longer authorized by State law to engage in the \* \* \* distribution [or] dispensing of controlled substances.” 21 U.S.C. 824(a)(3). Moreover, consistent with the CSA’s definition of the term “practitioner,” DEA has long held that a practitioner must be currently authorized to handle controlled substances in “the jurisdiction in which he practices” in order to maintain a DEA registration. *See* 21 U.S.C. 802(21) (“[t]he term ‘practitioner’ means 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”). *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.”).

As these provisions make plain, possessing authority under state law to dispense controlled substances is an essential condition for holding a DEA registration. *See David W. Wang*, 72 FR 54297, 54298 (2007); *Sheran Arden Yeates*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988). Here, while Registrant retains an Arizona P.A. license, the evidence establishes that he is no longer authorized under his license to dispense controlled substances. Because Registrant no longer satisfies this requirement, he is not entitled to maintain his registration. Accordingly, I will order that Registrant’s registration

be revoked and any pending application be denied.

### Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a)(3), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration MB1048746, issued to Dale J. Bingham, P.A., be, and it hereby is, revoked. I further order that any application of Dale H. Bingham, P.A., to renew or modify his registration, be denied. This Order is effective September 29, 2011.

Dated: August 17, 2011.

**Michele M. Leonhart**,  
Administrator.

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

[OJP (OJJDP) Docket No. 1556]

### Meeting of the Federal Advisory Committee on Juvenile Justice

**AGENCY:** Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U. S. Department of Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** The Office of Juvenile Justice and Delinquency Prevention (OJJDP) announces a meeting of the Federal Advisory Committee on Juvenile Justice (FACJJ).

**Dates and Locations:** The meeting will take place at the Gaylord National Hotel and Convention Center, 201 Waterfront Street, National Harbor, MD 20745, on Tuesday, October 11, 2011 from 8:30 a.m. to 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Robin Delany-Shabazz, Designated Federal Official, OJJDP, *Robin.Delany-Shabazz@usdoj.gov*, or 202–307–9963. [Note: This is not a toll-free number.]

**SUPPLEMENTARY INFORMATION:** The Federal Advisory Committee on Juvenile Justice (FACJJ), established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App.2), will meet to carry out its advisory functions under Section 223(f)(2)(C–E) of the Juvenile Justice and Delinquency Prevention Act of 2002. The FACJJ is composed of representatives from the states and territories. FACJJ member duties include: reviewing Federal policies regarding juvenile justice and delinquency prevention; advising the OJJDP Administrator with respect to particular functions and aspects of

<sup>1</sup> In its request for final agency action, the Government also stated that it mailed the Show Cause Order to Registrant at his last known address.

<sup>2</sup> The Board noted, however, that “[t]here has been no finding of unprofessional conduct against” Registrant. GX 6, at 2.

OJJDP; and advising the President and Congress with regard to State perspectives on the operation of OJJDP and Federal legislation pertaining to juvenile justice and delinquency prevention. More information may be found at <http://www.facjj.org>.

**Meeting Agenda:** The agenda will include: (a) Welcome and introductions; (b) remarks from the Administrator; (c) an introduction to the FACJJ and overview of member roles and responsibilities; (d) overview of OJJDP; (e) strategies for working with non-member states and territories; (f) discussion of sub committee options and work products; (g) election of a chair and vice chair; (h) other business; and (i) adjournment.

For security purposes, members of the FACJJ and of the public who wish to attend must pre-register online at <http://www.facjj.org> by Tuesday, October 4, 2011. Should problems arise with web registration, call Daryel Dunston at 240-221-4343. [Note: these are not toll-free telephone numbers.] Photo identification will be required. Additional identification documents may be required. Space is limited.

**Written Comments:** Interested parties may submit written comments by Tuesday, October 4, 2011, to Robin Delany-Shabazz, Designated Federal Official for the Federal Advisory Committee on Juvenile Justice, OJJDP, at [Robin.Delany-Shabazz@usdoj.gov](mailto:Robin.Delany-Shabazz@usdoj.gov). Alternatively, fax your comments to 202-307-2819 and call Joyce Mosso Stokes at 202-305-4445 to ensure its receipt. [Note: These are not toll-free numbers.] No oral presentations will be permitted though written questions or comments may be invited.

Dated: August 24, 2011.

**Jeff Slowikowski,**

*Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.*

[FR Doc. 2011-22132 Filed 8-29-11; 8:45 am]

**BILLING CODE 4410-18-P**

## DEPARTMENT OF LABOR

### Office of Workers' Compensation Programs

#### Proposed Renewal of Existing 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. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Certification of Medical Necessity (CM-893). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before October 31, 2011.

**ADDRESSES:** Mr. Vincent Alvarez, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0372, fax (202) 693-1447, E-mail [Alvarez.Vincent@dol.gov](mailto:Alvarez.Vincent@dol.gov). Please use only one method of transmission for comments (mail, fax, or E-mail).

#### SUPPLEMENTARY INFORMATION:

*I. Background:* The Office of Workers' Compensation Programs administers the Federal Black Lung Workers' Compensation Program. The enabling regulations of the Black Lung Benefits Act, at 20 CFR 725.701, establishes miner eligibility for medical services and supplies for the length of time required by the miner's condition and disability. 20 CFR 706 stipulates there must be prior approval before ordering an apparatus where the purchase price exceeds \$300.00. 20 CFR 725.707 provides for the ongoing supervision of the miner's medical care, including the necessity, character and sufficiency of care to be furnished; gives the authority to request medical reports and indicates the right to refuse payment for failing to submit any reports required. Because of the above legislation and regulations, it was necessary to devise a form to collect the required information. The CM-893, Certificate of Medical Necessity is completed by the coal miner's doctor and is used by the Division of Coal Mine Worker's Compensation to determine if the miner meets impairment standards to qualify for durable medical equipment, home nursing, and/or pulmonary rehabilitation. This information collection is currently approved for use through October 31, 2011.

*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;
- 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 submissions of responses.

*III. Current Actions:* The Department of Labor seeks the approval for the extension of this currently-approved information collection in order to carry out its responsibility to determine the eligibility for reimbursement of medical benefits to Black Lung recipients.

*Agency:* Office of Workers' Compensation Programs.

*Type of Review:* Extension.

*Title:* Certificate of Medical Necessity.

*OMB Number:* 1240-0024.

*Agency Number:* CM-893.

*Affected Public:* Individuals or households; Business or other for profit, and not-for-profit institutions.

*Total Respondents:* 2,500.

*Total Annual Responses:* 2,500.

*Average Time per Response:* 20 to 40 minutes.

*Estimated Total Burden Hours:* 965.

*Frequency:* On occasion.

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

*Total Burden Cost (operating/maintenance):* \$1,335.

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 will also become a matter of public record.

Dated: August 24, 2011.

**Vincent Alvarez,**

*Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.*

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