Registrant no longer has authority to dispense controlled substances in the State in which he holds his DEA registration and formerly engaged in professional practice, he is not entitled to maintain his DEA registration. *See* 21 U.S.C. 802(21), 823(f), and 824(a)(3). Accordingly, Registrant's registration will be revoked.

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 BA1325528, issued to Mladen Antolic, M.D., be, and it hereby is, revoked. I further order that any pending application of Mladen Antolic, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.[1]

Dated: December 23, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2012–1492 Filed 1–24–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Joseph Deluca, D.O.; Dismissal of Proceeding

On July 16, 2010, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Joseph Deluca, D.O. (Registrant), of Coral Springs, Florida. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration as a practitioner and the denial of any pending applications to renew or modify his registration, on the ground that ''[a]s a result of action by the Florida Department of Health, Board of Osteopathic Medicine, [he is] without authority to handle controlled substances in the State of Florida, the [S]tate in which [he is] registered with DEA.'' Show Cause Order at 1.

On July 27, 2010, the Government attempted to serve the Order to Show Cause on Registrant by certified mail, return receipt requested, which was addressed to him at his registered location. However, on August 9, 2010, the mailing was returned to DEA and stamped with the notations: ''MOVED, LEFT NO ADDRESS'' and ''RETURNED TO SENDER.'' GX 4.

On December 30, 2010, the Government submitted the investigative record and a Request for Final Agency Action to this Office. Therein, the Government stated that: ''[t]he Order to Show Cause was delivered via certified mail to the registered location of the Registrant, but was returned unclaimed. The Government has no information on a forwarding address for the Registrant or of his whereabouts.'' Request for Final Agency Action, at 1.

In its Request, the Government noted that on November 12, 2008, the Florida Department of Health, Board of Osteopathic Medicine (Board), issued an administrative complaint to Registrant. *Id.* The Government further noted that on March 23, 2010, the Board issued a final order (a copy of which was submitted in the Investigative Record) suspending Registrant's medical license for a period of two years. *Id.* at 1–2.

In its discussion of the procedural history of the Board proceeding, the Board's Final Order stated that ''[o]n October 12, 2009, the Petitioner [Florida Department of Health] received a request from the Respondent for a Hearing Not Involving Disputes Issues of Material Fact or Informal Hearing.'' GX 6, at 1. The Board's Final Order then noted that the ''Petitioner has filed a Motion for Final Order by Hearing Not Involving Disputes Issues of Material Facts,'' and that ''Respondent filed a response to the Motion for Final Order.'' *Id.* The Final Order also included a Certificate of Service, which noted that a copy of the order had been mailed to Respondent at an address in Pembroke Pines, Florida. *Id.* at 8.

Discussion

It is well settled ''that due process requires the government to provide 'notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.' '' *Jones* v. *Flowers,* 547 U.S. 220, 223 (2006) (quoting *Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U.S. 306, 314 (1950)). Moreover, '' 'when notice is a person's due * * * [t]he means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it.' '' *Jones,* 547 U.S. at 229 (quoting *Mullane,* 339 U.S. at 315).

In *Jones,* the Court further noted that its cases ''require[] the government to consider unique information about an intended recipient regardless of whether a statutory scheme is reasonably calculated to provide notice in the ordinary case.'' *Id.* at 230. The Court cited with approval its decision in *Robinson* v. *Hanrahan,* 409 U.S. 38 (1972), where it ''held that notice of forfeiture proceedings sent to a vehicle owner's home address was inadequate when the State knew that the property owner was in prison.'' *Jones,* 547 U.S. at 230.[1] *See also Robinson,* 409 U.S. at 40 (''[T]he State knew that appellant was not at the address to which the notice was mailed * * * since he was at that very time confined in * * * jail. Under these circumstances, it cannot be said that the State made any effort to provide notice which was 'reasonably calculated' to apprise appellant of the pendency of the * * * proceedings.''); *Covey* v. *Town of Somers,* 351 U.S. 141 (1956) (holding that notice by mailing, publication, and posting was inadequate when officials knew that recipient was incompetent).

The *Jones* Court further explained that ''under *Robinson and Covey,* the government's knowledge that notice pursuant to the normal procedure was ineffective triggered an obligation on the government's part to take additional steps to effect notice.'' 547 U.S. at 230. The Court also noted that ''a party's ability to take steps to safeguard its own interests [such as by updating his address] does not relieve the State of its constitutional obligation.'' *Id.* at 232 (quoting Brief for United States as *Amicus Curiae* 16 n.5 (quoting *Mennonite Bd. of Missions* v. *Adams,* 462 U.S. 791, 799 (1983))). However, the Government is not required to undertake ''heroic efforts'' to find a registrant. *Dusenbery* v. *United States,* 534 U.S. 161, 170 (2002).

Here, it is clear that '' '[t]he means employed' '' by the Government were not '' 'such as one desirous of actually informing the [registrant] might reasonably adopt to accomplish it.' '' *Jones,* 547 U.S. at 229 (quoting *Mullane,* 339 U.S. at 315). While in its Request for Final Agency Action, the Government asserts that it ''has no information on a forwarding address for the Registrant or of his whereabouts,'' the very state board order it relies upon as the basis

[1] For the same reasons that the State imposed its emergency suspension of Respondent's medical license, I conclude that the public interest requires that this Order be effective immediately. 21 CFR 1316.66.

[1] The CSA states that ''[b]efore taking action pursuant to [21 U.S.C. 824(a)] * * * the Attorney General shall serve upon the * * * registrant an order to show cause why registration should not be * * * revoked[] or suspended.'' 21 U.S.C. 824(c). In contrast to the schemes challenged in *Jones* and *Robinson,* which provided for service to the property owner's address as listed in state records, neither the CSA nor Agency regulations state that service shall be made at any particular address such as the registered location. In any event, while in most cases, service to a registrant's registered location provides adequate notice, the Supreme Court's clear instruction is that the Government cannot ignore ''unique information about an intended recipient'' when its seeks to serve that person with notice of a proceeding that it is initiating. *Jones,* 547 U.S. at 230.

for this proceeding indicates that the Registrant filed pleadings in that matter and provided an address at which the State served him with its final order. Yet the Government made no attempt to serve the Order to Show Cause on him at that address.

Because the Government clearly has information available to it regarding the whereabouts of Registrant and yet made no attempt to serve him at that address, I conclude that it has not complied with its obligation under the Due Process Clause ''to provide 'notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.' '' *Jones,* 547 U.S. at 223 (quoting *Mullane,* 339 U.S. at 314). Accordingly, the Government's request for a final order revoking Registrant's registration is denied and the Order to Show Cause is dismissed without prejudice.

It is so ordered.

Dated: December 23, 2011.

Michele M. Leonhart,

Administrator.

[FR Doc. 2012–1491 Filed 1–24–12; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2012–0002]

Asbestos in Construction 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's approval of the information collection requirements contained in the Asbestos in Construction Standard (29 CFR 1926.1101). The standard protects workers from adverse health effects from occupational exposure to asbestos, including lung cancer, mesothelioma, asbestosis (an emphysema-like condition) and gastrointestinal cancer.

DATES: Comments must be submitted (postmarked, sent, or received) by March 26, 2012.

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.

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 a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2012–0002, U.S. Department of Labor, Occupational Safety and Health Administration, 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 (OSHA–2012–0002) for the Information Collection Request (ICR). 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 from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, 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 efforts 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 standard protects workers from adverse health effects from occupational exposure to asbestos, including lung cancer, mesothelioma, asbestosis (an emphysema-like condition) and gastrointestinal cancer.

The standard requires employers to train workers about hazards to asbestos, to monitor worker exposure, to provide medical surveillance, and maintain accurate records of worker exposure to asbestos. These records will be used by employers, workers and the Government to ensure that workers are not harmed by exposure to asbestos in the workplace.

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