

five relevant to the results of DEA's random customer verifications where several of Respondent's proposed customers informed investigators that listed chemicals products likely would not be purchased from Respondent.

Factor five is also relevant to Respondent's lack of procedure for identifying suspicious or unusual purchases of list I chemical products. Factor five is further relevant to DEA's investigative findings regarding Respondent's inability to confirm the existence of its customers. The Deputy Administrator is also somewhat concerned by the Jiwani's inability to identify a part-time employee. It is unknown whether any knowledge of the individual's identity would favorably or unfavorably impact DEA's determination with regard to Respondent's application for registration. Therefore, the unresolved nature of this event is also given consideration under factor five. Based on the foregoing, the Deputy Administrator concludes that granting the pending application of the Respondent would be inconsistent with the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certificate of Registration, previously submitted by Joey Enterprises, Inc., d/b/a NorthStar Wholesale be, and it hereby is denied. This order is effective January 27, 2006.

Dated: December 15, 2005.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. 05-24496 Filed 12-27-05; 8:45am]

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 04-63]

#### **Donley D. Siddall, M.D.; Revocation of Registration**

On June 28, 2004, the Deputy Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause to Donley D. Siddall, M.D. (Respondent) of Collegedale, Tennessee. The Order to Show Cause notified the Respondent of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AS691100, under 21 U.S.C. 824(a)(3), and deny any pending application for renewal of that

registration pursuant to 21 U.S.C. 823(f). The Order to Show Cause further informed the Respondent of the immediate suspension of his registration, alleging that his continued registration would constitute an imminent danger to the public health and safety, pursuant to 21 U.S.C. 824(d).

Specifically, the Order to Show Cause alleged in relevant part that effective January 7, 2004 the Tennessee Board of Medical Examiners (Tennessee Board) revoked Respondent's license to practice medicine in that state and as a result, he is not currently authorized to handle controlled substances in Tennessee.

By letter dated August 6, 2004, the Respondent, through his legal counsel, timely requested a hearing in this matter. As part of his hearing request, the Respondent asserted that “\* \* \* [t]he Tennessee Board \* \* \* wrongly revoked [his] medical license \* \* \*.” On August 26, 2004, the presiding Administrative Law Judge Gail A. Randall (Judge Randall) issued to counsel for DEA as well as the Respondent on Order for Prehearing Statements.

In lieu of filing a Pre-hearing Statement, counsel for DEA filed Government's Request for Stay of Proceedings and Motion for Summary Disposition on September 9, 2004. In its motion, the Government recited the primary allegation raised in the Order to Show Cause regarding the January 7, 2004 revocation of the Respondent's Tennessee medical license. In support of its motions, the Government attached a copy of the aforementioned revocation order of the Tennessee Board. Accordingly, the Government argued that a motion for summary disposition is appropriate in this matter and Respondent's DEA Certificate of Registration should be revoked.

On September 29, 2004, counsel for the Respondent filed a Response In Opposition to the Government's Motion for Summary Disposition. In his reply brief, the Respondent argued in relevant part that any action by DEA to dismiss Respondent's right to a hearing would be “premature” since the matter involving the appropriateness of the Tennessee Board's revocation action was being reviewed in state courts. The Respondent also requested that DEA stay the current administrative action until the Tennessee state courts have reached a final decision regarding his state medical license. While he further argued in his reply brief that the Tennessee Board's revocation action was conducted “\* \* \* in an arbitrary and capricious manner”, and that the matter was pending review before the

Tennessee courts, the Respondent nevertheless did not deny that he is currently without authorization to handle controlled substances in Tennessee, the state in which he currently holds a DEA registration.

On November 4, 2004, Judge Randall issued her Order, Opinion and Recommended Decision of the Administrative Law Judge (Opinion and Recommended Decision). As part of her recommended ruling, Judge Randall granted the Government's Motion for Summary Disposition and found that the Respondent lacked authorization to handle controlled substances in Tennessee. In granting the Government's motion, Judge Randall also recommended that the Respondent's DEA registration be revoked. No exceptions were filed by either party to Judge Randall's Opinion and Recommended Decision, and on December 7, 2004, the record of these proceedings was transmitted to the Office of the DEA Deputy Administrator.

The Deputy Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues her final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Deputy Administrator finds that the Respondent currently possesses DEA Certificate of Registration AS6911007, and is registered to handle controlled substances at a location in Collegedale, Tennessee. As outlined above, the Respondent is currently without authorization to practice medicine in Tennessee following the January 7, 2004, revocation of his state medical license. Notwithstanding the Respondent's request that the DEA administrative matter be stayed pending a resolution of his appeal of the Tennessee Board's revocation order, there is no evidence before the Deputy Administrator that the Respondent has been granted reinstatement of his Tennessee medical license. Therefore, it is reasonable to conclude that without the ability to practice medicine, the Respondent also lacks authorization to handle controlled substances in Tennessee.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently

upheld. *See James Marvin Goodrich, M.D.*, 70 FR 24619 (2005); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

Here, it is clear that the Respondent's state medical license has been revoked and there is no information before the Deputy Administrator which points to a rescission or modification of the Tennessee Board's revocation order. As a result, the Respondent is not licensed to handle controlled substances in Tennessee, where he is registered with DEA. Therefore, he is not entitled to maintain that registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.014, hereby orders that DEA Certificate of Registration, AS6911007, issued to Donley D. Siddall, M.D., be, and is hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of such registration be, and they hereby are, denied.

This order is effective January 27, 2006.

Dated: December 15, 2005.

**Michele M. Leonhart,**

*Deputy Administrator.*

[FR Doc. 05-24497 Filed 12-27-05; 8:45am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

December 20, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202-693-4129 (this is not a toll-free number) or e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202-395-7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB 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 submission of responses.

*Agency:* Mine Safety and Health Administration.

*Type of Review:* Extension of currently approved collection.

*Title:* Independent Contractor Registration and Identification.

*OMB Number:* 1219-0040.

*Frequency:* On occasion.

*Type of Response:* Recordkeeping and Reporting.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 17,395.

*Estimated Annual Responses:* 100,665.

*Estimated Average Response Time:* 8 minutes for a mine operator to maintain contractor information and 4 to 8 minutes to supply information for obtaining a contractor identification number.

*Estimated Annual Burden Hours:* 13,396.

*Total Annualized Capital/Startup Costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$183,742.

*Description:* Independent contractors performing services or construction at mines are subject to the Federal Mine Safety and Health Act of 1977. Title 30 CFR 45.4(b) requires mine operators to maintain a written summary of information concerning each independent contractor present on the mine site. The information includes the trade name, business address, and telephone number; a brief description and the location on the mine of the work to be performed; MSHA identification number, if any; and the contractor's business address of record.

This information is required to be provided for inspection and enforcement purposes by the mine operator to any MSHA inspector upon request.

Title 30 CFR 45.3 provides that independent contractors may voluntarily obtain a permanent MSHA identification number by submitting to MSHA their trade name and business address, a telephone number, an estimate of the annual hours worked by the contractor on mine property for the previous calendar year, and the address of record for service of documents upon the contractor. Independent contractors performing services or construction at mines are subject to the Federal Mine Safety and Health Act of 1977 and are responsible for violations of the Mine Act committed by them or their employees.

Although Independent Contractors are not required to apply for the identification number, they will be assigned one by MSHA the first time they are cited for a violation of the Mine Act. MSHA uses the information to issue a permanent MSHA identification number to the independent contractor.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. E5-7962 Filed 12-27-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review: Comment Request

December 19, 2005.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Ira Mills on 202-693-4122 (this is not a toll-free number) or E-Mail: [Mills.Ira@dol.gov](mailto:Mills.Ira@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202-395-7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

*The OMB is particularly interested in comments which:*