

Registrant guilty of each of the counts set forth above with the exception of one count of administering controlled substances to aid in the commission of a felony. *Id.* at 9 (verdict form). The Government did not, however, submit a judgment of conviction, and it is unclear as to whether a judgment of conviction has been entered by the state court.

### 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 . . . 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 held repeatedly 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, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed Appx. 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 . . . 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 physician possess state authority in order to be deemed a practitioner under the Act, DEA has held that 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); *see also Hooper v. Holder*, 481 Fed. Appx. at 828.

Also, because the CSA makes clear 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 both obtaining and maintaining a practitioner’s registration, “revocation is warranted even where a practitioner’s state authority has been summarily suspended and the State has yet to provide the practitioner with a hearing to challenge the State’s action at which he may ultimately prevail.” *Kamal Tiwari*, 76 FR 71604, 71606 (2011); *see also Bourne Pharmacy, Inc.*, 72 FR 18273, 18274 (2007); *Anne Lazar Thorn*, 62 FR 12847 (1997).

As a result of the Nevada Board’s June 2015 Order of Summary Suspension, Registrant is not currently authorized to dispense controlled substances in Nevada, the State in which he is registered. Accordingly, I will order that his registration be revoked and that any pending application to renew his registration, or for any other registration in the State of Nevada be denied.<sup>1</sup>

### Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. BC9308936 issued to Binh M. Chung, M.D., be, and it hereby is, revoked. I further order that any application of Binh M. Chung, M.D., to renew or modify this registration, or for any other registration in the State of

<sup>1</sup> While the Government also sought revocation on the ground that Registrant has been convicted of an offense related to controlled substances, it produced evidence only as to the existence of a jury verdict and not the existence of a judgment of conviction. The Agency has previously noted that the term “conviction” could mean either “a judgment of conviction or simply a finding of guilty which precedes the entry of a final judgment of conviction.” *Roger A. Pellman*, 76 FR 17704, 17709 n.10 (citing *Deal v. United States*, 508 U.S. 129, 131 (1993)). The Government, however, makes no argument as to why, in the context of the CSA’s registration provisions, the term includes a finding of guilty even where no final judgment has been entered.

The Government also sought revocation under the public interest standard, arguing that his “conduct demonstrates [his] negative experience in dispensing controlled substances and non-compliance with state law relating to controlled substances under the public interest factors.” RFAA, at 5. However, because the Government produced no evidence that the court has entered a judgment of conviction, the jury’s findings are not entitled to preclusive effect. *Cf. Restatement (Second) of Judgments*, § 27 (“When an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action . . . whether on the same or a different claim.”). Similarly, because the Board’s suspension order was based on its preliminary findings, and there is no evidence that the Board has issued a final decision affirming these findings, these findings cannot support revocation under the public interest standard.

Nevada, be, and it hereby is, denied. This Order is effective immediately.<sup>2</sup>

Dated: August 17, 2017.

**Chuck Rosenberg,**

*Acting Administrator.*

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## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995 on the National Science Foundation Proposal and Award Policies and Procedures Guide. NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments regarding these information collections are best assured of having their full effect if received September 25, 2017.

**ADDRESSES:** Comments should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

**FOR FURTHER INFORMATION CONTACT:** Suzanne Plimpton, Reports Clearance Officer, 703–292–7556.

**SUPPLEMENTARY INFORMATION:** This is the second notice for public comment; the

<sup>2</sup> For the same reasons which led the Board to immediately suspend Registrant’s registration, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

first was published in the **Federal Register** at 82 FR 23840, and 50 comments were received 57 responses were received from 3 different organizations/institutions/individuals. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: <http://www.reginfo.gov/public/do/PRAMain>.

The National Science Foundation (NSF) is announcing plans to request renewed clearance of this collection. The primary purpose of this revision is to implement changes described in the **SUPPLEMENTARY INFORMATION** section of this notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to 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.

#### Summary of Comments on the National Science Foundation Proposal and Award Policies and Procedures Guide and NSF's Responses

The draft NSF PAPPG was made available for review by the public on the NSF Web site at <http://www.nsf.gov/bfa/dias/policy/>. NSF received 57 responses from three commenters in response to the First **Federal Register** notice published on May 24, 2017, at 82 FR 23840. Please see <https://www.reginfo.gov/public/do/PRAMain> for the comments received, and NSF's responses.

*Title of Collection:* "National Science Foundation Proposal & Award Policies & Procedures Guide."

*OMB Approval Number:* 3145-0058.

*Type of Request:* Intent to seek approval to extend with revision an information collection for three years.

*Proposed Project:* The National Science Foundation Act of 1950 (Pub. L. 81-507) sets forth NSF's mission and purpose:

"To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense . . . ."

The Act authorized and directed NSF to initiate and support:

- Basic scientific research and research fundamental to the engineering process;
- Programs to strengthen scientific and engineering research potential;
- Science and engineering education programs at all levels and in all the various fields of science and engineering;
- Programs that provide a source of information for policy formulation; and
- Other activities to promote these ends.

NSF's core purpose resonates clearly in everything it does: Promoting achievement and progress in science and engineering and enhancing the potential for research and education to contribute to the Nation. While NSF's vision of the future and the mechanisms it uses to carry out its charges have evolved significantly over the last six decades, its ultimate mission remains the same.

*Use of the Information:* The regular submission of proposals to the Foundation is part of the collection of information and is used to help NSF fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. NSF receives more than 50,000 proposals annually for new projects, and makes approximately 11,000 new awards.

Support is made primarily through grants, contracts, and other agreements awarded to approximately 2,000 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on merit evaluations of proposals submitted to the Foundation.

The Foundation has a continuing commitment to monitor the operations of its information collection to identify and address excessive reporting burdens as well as to identify any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s).

#### Burden on the Public

It has been estimated that the public expends an average of approximately 120 burden hours for each proposal submitted. Since the Foundation expects to receive approximately 52,000 proposals in FY 2017, an estimated 6,240,000 burden hours will be placed on the public.

The Foundation has based its reporting burden on the review of approximately 50,500 new proposals expected during FY 2018. It has been estimated that anywhere from one hour

to 20 hours may be required to review a proposal. We have estimated that approximately 5 hours are required to review an average proposal. Each proposal receives an average of 3 reviews, resulting in approximately 757,500 hours per year.

The information collected on the reviewer background questionnaire (NSF 428A) is used by managers to maintain an automated database of reviewers for the many disciplines represented by the proposals submitted to the Foundation. Information collected on gender, race, and ethnicity is used in meeting NSF needs for data to permit response to Congressional and other queries into equity issues. These data also are used in the design, implementation, and monitoring of NSF efforts to increase the participation of various groups in science, engineering, and education. The estimated burden for the Reviewer Background Information (NSF 428A) is estimated at 5 minutes per respondent with up to 10,000 potential new reviewers for a total of 833 hours.

The aggregate number of burden hours is estimated to be 6,817,500. The actual burden on respondents has not changed.

Dated: August 22, 2017.

**Ann Bushmiller,**

*Senior Counsel, National Science Board.*

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## OVERSEAS PRIVATE INVESTMENT CORPORATION

### Sunshine Act Meeting Notice

**TIME AND DATE:** Thursday, September 14, 2017, 2 p.m. (Open Portion) 2:15 p.m. (Closed Portion).

**PLACE:** Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

**STATUS:** Meeting Open to the Public from 2 p.m. to 2:15 p.m., Closed portion will commence at 2:15 p.m. (approx.).

#### MATTERS TO BE CONSIDERED:

1. President's Report.
2. Minutes of the Open Session of the June 15, 2017, Board of Directors Meeting.

#### FURTHER MATTERS TO BE CONSIDERED (Closed to the Public 2:15 p.m.):

1. Proposed FY 2019 Budget.
2. Insurance Project—Ukraine.
3. Finance Project—Costa Rica.
4. Minutes of the Closed Session of the June 15, 2017, Board of Directors Meeting.
5. Reports and Budget.