

whose performance is excellent. The medical administrator further testified that Respondent needs to be able to provide controlled substances to the inmates in order to keep his position with the company.

Finally, Respondent testified on his own behalf. He stated that the billing codes did not take into account the nature of the work performed in long-term care facilities, but instead seemed to be geared towards office visits. Respondent explained that he did not time his sessions with patients at the long-term care facilities because he was often approached informally by patients. Additionally, emergencies and interruptions made it difficult to accurately time the sessions. Regarding his over-billing, Respondent testified that he never intended to conceal his method of billing, that he had thought that it was acceptable to use the code he did, and that he had never thought such conduct would lead to a criminal indictment. When asked how he determined when he would use the 90844 code, Respondent replied, "it depended on the * * * complexity, the diagnosis, how much potential was involved, how many interruptions I would have in my weekly schedule with phone calls or something having to do with a patient." Respondent further testified, "I knew that I was billing for 45 minutes services and I was not providing 45 minutes services." Respondent distinguished his actions from those of doctors who charge for visits that never took place.

According to Respondent, the state medical board placed his medical license on probation for one year and imposed a requirement that he receive ten hours of continuing medical education. He further testified that he needs to be able to handle controlled substances in his current position treating inmates at the local jail.

The Deputy Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. § 824(a), upon a finding that the registrant:

- (1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;
- (2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;
- (3) Has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a-7(a) of Title 42.

It is undisputed that subsection (5) of 21 U.S.C. § 824(a) provides the sole basis for the revocation of Respondent's DEA Certificate of Registration. Pursuant to 42 U.S.C. 1320a-7(a), Respondent has been excluded from participation in the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs for a five year period until approximately, mid-April 1999. The issue remaining is whether the Deputy Administrator, in exercising his discretion, should revoke or suspend Respondent's DEA Certificate of Registration.

The Government contends that Respondent is unwilling to accept full responsibility for his unlawful billing practices, that throughout the hearing Respondent attempted to justify his actions, and that therefore his DEA registration should be revoked. Respondent on the other hand does not dispute being excluded from participating in Medicare and the Illinois Medical Assistance Program, but he argues that his "lifelong professional conduct, and current professional responsibilities" weight against revoking his DEA registration.

In evaluating the circumstances of this case, Judge Bittner notes that Respondent's exclusion from participation in Medicare and the Illinois Medical Assistance Program did not result from any misuse of his authority to handle controlled substances. However as Judge Bittner correctly points out, misconduct which does not involve controlled substances may constitute grounds for the revocation of a DEA registration pursuant to 21 U.S.C. 824(a)(5). See Stanley Dubin, D.D.S., 61 FR 60,727 (1996); Nelson Ramirez-Gonzalez, M.D., 58 FR 52,787 (1993); George D. Osafo, M.D. 58 FR 37,508 (1993). Therefore, the Deputy Administrator agrees with Judge Bittner that the Government has established a prima facie case for the revocation of Respondent's DEA Certificate of Registration.

Nonetheless, Judge Bittner recommended that Respondent's registration not be revoked because she was "persuaded that Respondent has accepted responsibility for his misconduct and that is not likely to recur." The Deputy Administrator agrees with Judge Bittner, finding it significant that Respondent did not

attempt to conceal his misconduct and in fact was quite straightforward with the investigators. The Deputy Administrator disagrees with the Government that Respondent has not accepted responsibility for his actions. Respondent has never denied that he over-billed for his services, however he has attempted to explain why he did so. In addition, the Deputy Administrator finds it significant that Respondent was honest and forthcoming regarding his background with his current employer and that he need to be able to handle controlled substances in order to continue treating inmates in the local jail. Therefore, the Deputy Administrator finds that Respondent's registration should not be revoked.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AS4328274, issued to Melvin N. Seglin, M.D., be renewed and continued. This order is effective December 21, 1998.

Dated: December 8, 1998.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 98-33708 Filed 12-18-98; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance 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 Employment Standards Administration is soliciting comments concerning three information collections of the Office of Workers' Compensation Programs, Office of Longshore and Harbor

Workers' Compensation: (1) Certification of Funeral Expenses (LS-265); (2) Payment of Compensation Without Award (LS-206); and (3) Notice of Controversion of Right to Compensation (LS-207). Copies of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 22, 1999. 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.

ADDRESSES: Contact Ms. Patricia Forkel at the U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-3201, Washington, D.C. 20210, telephone (202) 693-0339. The Fax number is (202) 219-6592. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend Longshore Act coverage to certain other employees. Section 9(a) of the Act provides that reasonable funeral expenses not to exceed \$3,000 shall be paid in all compensable death cases. Form LS-265 has been provided for use in submitting the funeral expenses for payment.

Under section 14(b) & (c) of the Longshore Act, a self-insured employer or insurance carrier is required to pay

compensation within 14 days after the employer has knowledge of the injury or death of the employee. Upon making the first payment, the employer or carrier shall immediately notify the Longshore district director of the payment. Form LS-206 has been designated as the proper form on which report of first payment is to be made.

Pursuant to Section 14(d) of the Act, if an employer controverts the right to compensation he/she shall file with the Longshore deputy commissioner in the affected compensation district on or before the fourteenth day after he has knowledge of an alleged injury or death, a notice, in accordance with a form prescribed by the Secretary of Labor, stating that the right to compensation is controverted. LS-207 is used for this purpose.

II. Current Actions

The Department of Labor (DOL) seeks extension of approval for these three information collections in order to carry out its responsibility to meet the statutory requirements to provide compensation or death benefits under the Act to workers covered under the Act.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Certification of Funeral Expenses.

OMB Number: 1215-0027.

Agency Number: LS-265.

Affected Public: Business or other for-profit.

Total Respondents: 195.

Frequency: On occasion.

Total Responses: 195.

Average Time Per Response for

Reporting: 15 minutes.

Estimated Total Burden Hours: 49.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): \$68.00.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Payment of Compensation Without Award.

OMB Number: 1215-0022.

Agency Number: LS-206.

Affected Public: Business or other for-profit.

Total Respondents: 900.

Frequency: On occasion.

Total Responses: 27,000.

Average Time Per Response: 15

minutes.

Estimated Total Burden Hours: 6,750.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): \$10,057.50.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Notice of Controversion of Right to Compensation.

OMB Number: 1215-0023.

Agency Number: LS-207.

Affected Public: Business or other for-profit.

Total Respondents: 900.

Frequency: On occasion.

Total Responses: 18,000.

Average Time Per Response: 15 minutes.

Estimated Total Burden Hours: 4,500.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): \$6,705.00.

Dated: December 15, 1998.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

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BILLING CODE 4510-27-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR-98-37]

Longshoring and Marine Terminals (29 CFR Parts 1910, 1917 and 1918); Information Collection Requirements

ACTION: Notice; opportunity for public comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance 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 (PRA-95) (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 impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed reinstatement of the information collection requirements contained in the standard on Longshoring and Marine Terminals (29 CFR parts 1917 and 1918). The Agency is particularly interested in comments that: