

16,193 (1997); Demetris A. Green, M.D., 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993). Since Respondent lacks authority in the State of New York to handle controlled substances, he is not entitled to a DEA registration in that state.

While, Respondent argues that many untrue statements were made by the Board in revoking his license to practice medicine, he does not dispute that he is currently not authorized to handle controlled substances in the State of New York. Under the circumstances, Judge Randall properly granted the Government's Motion for Summary Disposition. It is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Phillip E. Kirk, M.D., 48 FR 32,887 (1983) *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984); *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977); *United States v. Consolidated Mines & Smelting Co.*, 44 F.2d 432 (9th Cir. 1971).

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.R.F. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AB4921210, previously issued to Robert M. Binenfeld, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration be, and they hereby are denied. This order is effective November 19, 1997.

Dated: October 10, 1997.

**James S. Milford,**

*Acting Deputy Administrator.*

[FR Doc. 97-27638 Filed 10-17-97; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Benjamin R. Borja, D.M.D.; Revocation of Registration

On June 23, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Benjamin R. Borja, D.M.D., of North Hills, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AB8143024, under 21 U.S.C. 824(a)(3),

and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of California. The order also notified Dr. Borja that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received by Dr. Borja on June 30, 1997. No request for a hearing or any other reply was received by the DEA from Dr. Borja or anyone purporting to represent him in his matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Borja is deemed to have waived his hearing right. After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on March 22, 1996, the Board of Dental Examiners, Department of Consumer Affairs, State of California issued a Default Decision and Order revoking Dr. Borja's dental license effective May 1, 1996, based upon a finding that Dr. Borja engaged in unprofessional conduct, incompetence, gross negligence, and/or repeated acts of negligence in his treatment of a patient. The Acting Deputy Administrator finds that in light of the fact that Dr. Borja is not currently licensed to practice medicine in the State of California, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

The DEA does not have the 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 his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Dr. Borja is not currently authorized to handle controlled substances in the State of California. Therefore, Dr. Borja is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the

authority vested in him by 1 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AB8143024, previously issued to Benjamin R. Borja, D.M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective November 19, 1997.

**James S. Milford,**

*Acting Deputy Administrator.*

Dated: October 9, 1997.

[FR Doc. 97-27639 Filed 10-17-97; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Submission for OMB Review; Comment Request

October 14, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) 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 each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219-5096 ext. 143) or by E-Mail to OMalley-Theresa@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219-4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday-Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), 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 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:* Employment and Training Administration.  
*Title:* Unemployment Compensation for Former Federal Employees, Handbook No. 391.

*OMB Number:* 1205-0179 (extension).  
*Frequency:* One-time.  
*Affected Public:* Individuals or households; Federal Government; State, Local or Tribal Government.

Form	Respondents	Average time per response
ES 931 .....	144,000	3 minutes.
ES 391A .....	33,120	3 minutes.
ES 935 .....	144,000	5 minutes.
ES 933 .....	2,360	3 minutes.
ES 934 .....	15,025	3 minutes.
ES 936 .....	7,200	3 minutes.
ES 939 .....	75	1 hour 45 minutes.
ETA 8-32 .....	53	5 minutes.

*Total Burden Hours:* 28,434.  
*Total Annualized capital/startup costs:* 0.  
*Total annual costs (operating/maintaining systems or purchasing services):* \$66,000.  
*Description:* Federal Law (5 U.S.C. 8501-8509) provides unemployment insurance protection to former (or partially unemployed) Federal civilian employees. It is referred to, in abbreviated form, as "UCFE." The forms contained throughout the UCFE Handbook are used in connection with the provision of this benefit assistance.  
*Agency:* Employment and Training Administration.  
*Title:* ETA Data Validation Handbook No. 361.  
*OMB Number:* 1205-0055 (revision).  
*Frequency:* Annually.  
*Affected Public:* State, Local or Tribal Government.  
*Number of Respondents:* 53.

*Estimated Time Per Respondent:* 152 hours.  
*Total Burden Hours:* 8,056.  
*Total Annualized capital/startup costs:* \$21,200,000.  
*Total annual costs (operating/maintaining systems or purchasing services):* \$189,977,000.  
*Description:* Data provided to the Unemployment Insurance Service must be credible for use in the distribution of administrative funds as well as triggering the Extended Benefits Program and as economic indicators as well as general information for operating the program. Validation attempts to ensure the accuracy and compatibility of reported data.  
*Agency:* Employment and Training Administration.  
*Title:* Work Application/Job Order Recordkeeping.  
*OMB Number:* 1205-0001 (extension).

*Frequency:* On occasion (recordkeeping).  
*Affected Public:* State, Local or Tribal Government.  
*Number of Respondents:* 52.  
*Estimated Time Per Respondent:* 8 hours.  
*Total Burden Hours:* 416.  
*Total Annualized capital/startup costs:* - 0 -.  
*Total annual costs (operating/maintaining systems or purchasing services):* - 0 -.  
*Description:* Request is for retention of information on work applications and job orders.  
*Agency:* Employment and Training Administration.  
*Title:* Worker Adjustment Formula Financial Report.  
*OMB Number:* 1205-0326 (extension).  
*Affected Public:* State, Local or Tribal Government.

Activity	Number of respondents	Frequency	Average time per response (hours)
Data Collection .....	52	3 quarters .....	6
	52	1 quarter .....	7
Recordkeeping .....	52	one-time .....	10

*Total Burden Hours:* 1,820.  
*Total Annualized capital/startup costs:* - 0 -.  
*Total annual costs (operating/maintaining systems or purchasing services):* 0.  
*Description:* The information will be used to assess formula programs under Title III of JTPA, as amended. Participant and financial data will be used to monitor program performance, and to prepare reports and budget requests.

*Agency:* Employment and Training Administration.  
*Title:* Preliminary Estimates of Average Employer Tax Rates.  
*OMB Number:* 1205-0228 (reinstatement).  
*Agency Form Number:* ETA 205.  
*Frequency:* Annually.  
*Affected Public:* State, Local or Tribal Government.  
*Number of Respondents:* 53.  
*Estimated Time Per Respondent:* 16 minutes.  
*Total Burden Hours:* 14 hours.

*Total Annualized capital/startup costs:* 0.  
*Total annual costs (operating/maintaining systems or purchasing services):* 0.  
*Description:* The average tax rate collected from States is used to compute average tax rate for the United States and, along with the current tax rate schedule, are used to certify that States are complying with the law.  
*Agency:* Occupational Safety and Health Administration.

*Title:* Respiratory Protection (29 CFR part 1910.134).

*OMB Number:* 1218-0099 (extension).

*Frequency:* On occasion.

*Affected Public:* Business or other for-profit; Federal Government; State, Local or Tribal Government.

*Number of Respondents:* 130,000.

*Estimated Time Per Respondent:* Time per response ranges from 5 minutes to mark emergency-use respirator storage compartments to 8 hours to develop a written respiratory protection program.

*Total Burden Hours:* 1,166,092.

*Total Annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* 0.

*Description:* The purpose of this standard and its information collection is designed to provide protection for employees from workplace atmospheric contamination. The standard requires employers to develop a written respiratory protection program, to inspect and certify emergency-use respirators, and mark emergency-use respirator storage compartments.

**Theresa M. O'Malley,**

*Departmental Clearance Officer.*

[FR Doc. 97-27735 Filed 10-17-97; 8:45 am]

BILLING CODE 4510-30-M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### New Mexico State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act), by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On December 10, 1975, notice was published in the **Federal Register** (40 FR 57455) of the approval of the New Mexico State Plan and the adoption of Subpart DD to Part 1952 containing the decision.

The New Mexico State Plan provides for the adoption of Federal standards as State standards after:

1. Notice of public hearing published in a newspaper of general circulation in the State at least sixty (60) days prior to the date of such hearing.

2. Public hearing conducted by the Environmental Improvement Board.

3. Filing of adopted regulations, amendments, or revocations under the State Rules Act.

The New Mexico State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act.

By letter dated August 12, 1997, from Sam A. Rogers, Bureau Chief, to Emzell Blanton, Jr., Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to Federal standards as follow: Amendment to 1910, Subpart B, Adoption and Extension of Established Federal Standards (61 FR 56831-56855, dated 11/4/96), and Amendment to 1926.55, Appendix A, Gases, Vapors, Fumes, Dust, and Mist (61 FR 56856, dated 11/4/96).

These standards, contained in New Mexico Occupational Health and Safety Regulations 11 NMAC 5.1 and 11 NMAC 5.2, were promulgated on August 8, 1997, in accordance with applicable State law.

The subject standards became effective September 15, 1997, pursuant to New Mexico State Law, Sections 50-9-1 through 50-9-25.

2. *Decision.* OSHA has determined that the State standards at 11 NMAC 5.1, and 11 NMAC 5.2 are identical to the comparable Federal standards, and therefore approves the standards.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor-OSHA, 525 Griffin Street, Room 602, Dallas, Texas 75202; Office of the Secretary, Environment Department, 1190 St. Francis Drive, Room 2200-North, Santa Fe, New Mexico 87503; and the Office of State Programs, 200 Constitution Avenue, N.W., Room N3700, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the New Mexico State Plan as proposed changes, and making the Regional

Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law, which included public comment, and further public participation would be repetitious.

The decision is effective September 8, 1997.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Dallas, Texas, this eighth day of September 1997.

**Emzell Blanton, Jr.,**

*Regional Administrator.*

[FR Doc. 97-27653 Filed 10-17-97; 8:45 am]

BILLING CODE 4510-26-P

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Application No. D-10412, et al.]

#### Proposed Exemptions; Metropolitan Life Insurance Company

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Notice of proposed exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

#### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of