

71 FR 77791, 77797 (2006), here, no such order was issued. Because there is neither an existing registration nor an application to act upon, and there is no suspension order to review, this case is now moot.²

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) and 0.104, I hereby order that the Order to Show Cause issued to Benjamin L. Levine, M.D., be, and it hereby is, dismissed.

Dated: June 6, 2008.

Michele M. Leonhart,
Deputy Administrator.

[FR Doc. E8-13617 Filed 6-16-08; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 07-40]

William W. Nucklos, M.D.; Dismissal of Proceeding

On June 18, 2007, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to William W. Nucklos, M.D. (Respondent), of Powell, Ohio. The Show Cause Order proposed the revocation of Respondent's registration, BN2037314, as a practitioner, and the denial of any pending application to renew his registration, on two grounds.

First, the Show Cause Order alleged that on March 8, 2006, the State Medical Board of Ohio had suspended Respondent's state medical license. Show Cause Order at 1 (citing 21 U.S.C. 824(a)(3)). Second, the Show Cause Order alleged that on or about February 15, 2006, Respondent had been "convicted of ten felony counts of drug trafficking and the illegal processing of drug documents." *Id.*; see also 21 U.S.C. 824(a)(2) & (a)(4).

Respondent requested a hearing on the allegations; the matter was therefore assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. Thereafter, the Government moved for summary disposition and to stay the proceeding on the ground that the Ohio board had suspended Respondent's medical license, and Respondent was thus without authority to handle controlled substances in the State in which he maintained his DEA registration. ALJ

Dec. at 1-2. The Government supported its motion with a copy of the Notice of Immediate Suspension which had been issued by the Ohio Board, and which referenced Respondent's indictment and conviction on ten felony counts of trafficking Oxycontin, and ten felony counts of "[i]llegal [p]rocessing of [d]rug [d]ocuments." Notice of Immediate Suspension and Opportunity for Hearing (Mar. 8, 2006) (citing Ohio Rev. Code 2925.03 & 2925.23).

Respondent opposed the Government's motion. Respondent's principal contention was that his convictions had been reversed by the Court of Appeals of Clark County, Ohio, and that he had a pending request with the State Medical Board to vacate the suspension because it had been based on the criminal convictions. Respondent's Resp. at 1.

The ALJ granted the Government's motion. According to the ALJ, there was no dispute that Respondent's state medical license remained suspended and that he was not "currently authorized to handle controlled substances in Ohio." ALJ at 3. The ALJ further explained that although Respondent had requested that the Ohio Board vacate his suspension, he "ha[d] not demonstrated that the suspension will be lifted." *Id.* Reasoning that she was "compelled to grant the Government's motion" because Respondent's license had been suspended, the ALJ recommended that Respondent's registration be revoked and that any pending applications be denied. *Id.* Thereafter, the record was forwarded to me for final agency action.

In reviewing the record, I have taken official notice of the Agency's records pertaining to Respondent's registration status.¹ According to the Agency's records, Respondent's registration expired on October 31, 2007. Moreover, there is no evidence showing that Respondent has filed a renewal application, let alone a timely one. See 21 CFR 1301.36(i). Accordingly, I conclude that there is neither a registration nor an application to act upon. *Id.*

Under DEA precedent, "if a registrant has not submitted a timely

renewal application prior to the expiration date, then the registration expires and there is nothing to revoke." *David L. Wood*, 72 FR 54936, 54937 (2007) (quoting *Ronald J. Riegel*, 63 FR 67132, 67133 (1998)). Moreover, while I have recognized a limited exception to this rule in cases which commence with the issuance of an immediate suspension order because of the collateral consequences which may attach with the issuance of such a suspension, see *William R. Lockridge*, 71 FR 77791, 77797 (2006), here, no such order was issued. Because there is neither an existing registration nor an application to act upon, and there is no suspension order to review, this case is now moot.²

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) and 0.104, I hereby order that the Order to Show Cause issued to William W. Nucklos, M.D., be, and it hereby is, dismissed.

Dated: June 6, 2008.

Michele M. Leonhart,
Deputy Administrator.

[FR Doc. E8-13618 Filed 6-16-08; 8:45 am]

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DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Inmate Behavior Management: Implementation and Evaluation

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: This project has two areas of focus: Assistance to selected jails in implementing the six elements of inmate behavior management and evaluation of the process and impact of implementation. The project award will be for a two-year period, and the project will be carried out in conjunction with the NIC Jails Division. The awardee will work closely with NIC Jails Division staff.

DATES: Applications must be received by 4 p.m. (EDT) on Friday, July 18, 2008.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of

² The dismissal of a proceeding on mootness grounds does not, however, have collateral estoppel effect in the event that Respondent reapplies for a DEA registration in the future.

¹ Under the Administrative Procedure Act (APA), an agency "may take official notice of facts at any stage in a proceeding-even in the final decision." U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Respondent is "entitled on timely request, to an opportunity to show to the contrary." 5 U.S.C. 556(e); see also 21 CFR 1316.59(e). Respondent can dispute these facts by filing a properly supported motion for reconsideration within fifteen days of service of this order, which shall begin on the date this order is mailed.

² The dismissal of a proceeding on mootness grounds does not, however, have collateral estoppel effect in the event that Respondent reapplies for a DEA registration in the future.