



**DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

**Benson Sergiles, P.A.;
Decision and Order**

On December 2, 2024, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Benson Sergiles, P.A., of Peoria, Arizona (Registrant). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 1, at 1, 3. The OSC proposed the revocation of Registrant’s Certificate of Registration No. MB7529261, alleging that Registrant is “currently without authority to . . . handle controlled substances in the State of Arizona, the state in which [he is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

The OSC notified Registrant of his right to file a written request for hearing, and that if he failed to file such a request, he would be deemed to have waived his right to a hearing and be in default. *Id.* (citing 21 CFR 1301.43). Here, Registrant did not request a hearing. RFAA, at 3.¹ “A default, unless excused, shall be deemed to constitute a waiver of the registrant’s/applicant’s right to a hearing and an admission of the factual allegations of the [OSC].” 21 CFR 1301.43(e).

Further, “[i]n the event that a registrant . . . is deemed to be in default . . . DEA may then file a request for final agency action with the Administrator, along with a record to support its request. In such circumstances, the Administrator may enter a default final order pursuant to [21 CFR] 1316.67.” *Id.* 1301.43(f)(1). Here, the Government has requested final agency action

¹ Based on the Government’s submissions in its RFAA dated May 6, 2025, the Agency finds that service of the OSC on Registrant was adequate. The included declaration from a DEA Diversion Investigator (DI) indicates that on January 15, 2025, the DI emailed a copy of the OSC to Registrant at his registered email address but received an “Undeliverable” email in response stating that Registrant’s registered email address was “disabled.” RFAAX 3, at 5. On the same date, the DI sent a copy of the OSC to Registrant’s registered mailing address via USPS First Class Mail, but it was returned on January 23, 2025. *Id.* at 3. The DI also mailed a copy of the OSC to Registrant’s “mail to address” and two additional business addresses associated with Registrant. *Id.* at 4. On February 18, 2025, one of the copies was returned to the DI. *Id.* at 5. Here, the Agency finds that the DI’s efforts to serve Registrant at his registered email address, registered mailing address, and multiple other mailing addresses were “‘reasonably calculated, under all the circumstances, to apprise [Registrant] of the pendency of the action.’” *Jones v. Flowers*, 547 U.S. 220, 226 (2006) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Therefore, due process notice requirements have been satisfied.

based on Registrant's default pursuant to 21 CFR 1301.43(c), (f), and 1301.46. RFAA, at 4-5; *see also* 21 CFR 1316.67.

FINDINGS OF FACT

The Agency finds that, in light of Registrant's default, the factual allegations in the OSC are admitted. According to the OSC, Registrant's Arizona physician assistant license expired on January 2, 2023. RFAAX 2, at 1. Further, according to the OSC, his Arizona physician assistant license specified that he was "[n]ot certified to prescribe controlled drugs," and the prescriptive authority under his license before it expired was only for "NON-CONTROLLED SUBSTANCES." *Id.* at 2. According to Arizona online records, of which the Agency takes official notice,² Registrant's Arizona physician assistant license remains expired. Arizona Regulatory Board of Physician Assistants Search, <https://www.azpa.gov/PASearch/PASearch> (last visited date of signature of this Order). Accordingly, the Agency finds that Registrant is not licensed to practice as a physician assistant in Arizona, the state in which he is registered with DEA.³

DISCUSSION

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under 21 U.S.C. 823 "upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." With respect to a practitioner, DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding – even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979).

³ Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." The material fact here is that Registrant, as of the date of this decision, is not licensed to practice as a physician assistant in Arizona. Accordingly, Registrant may dispute the Agency's finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by e-mail to the other party and to the DEA Office of the Administrator, Drug Enforcement Administration, at dea.addo.attorneys@dea.gov.

professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) ("The Attorney General can register a physician to dispense controlled substances 'if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.' . . . The very definition of a 'practitioner' eligible to prescribe includes physicians 'licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices' to dispense controlled substances. § 802(21)."). The Agency has applied these principles consistently. *See, e.g., James L. Hooper, M.D.*, 76 Fed. Reg. 71,371, 71,372 (2011), *pet. for rev. denied*, 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. 27,616, 27,617 (1978).⁴

According to Arizona statute, "[e]very person who manufactures, distributes, dispenses, prescribes or uses for scientific purposes any controlled substance within th[e] state or who proposes to engage in the manufacture, distribution, prescribing or dispensing of or using for scientific purposes any controlled substance within th[e] state must first: (1) [o]btain and possess a current license or permit as a medical practitioner as defined in § 32-1901 . . ." Ariz. Rev. Stat. Ann. § 36-2522(A)(1) (2025). Section 32-1901 defines a "[m]edical practitioner" as "any medical doctor . . . or other person who is licensed and authorized by law to use and prescribe drugs and devices to treat sick and injured human beings or animals or to diagnose or prevent sickness in human beings or animals in [Arizona] or any state, territory or district of the United States." *Id.* § 32-1901(56).

⁴ 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(g)(1). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly 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. *See, e.g., James L. Hooper, M.D.*, 76 Fed. Reg. at 71,371-72; *Sheran Arden Yeates, M.D.*, 71 Fed. Reg. 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 Fed. Reg. 11,919, 11,920 (1988); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. at 27,617.

Here, the undisputed evidence in the record is that Registrant lacks authority to practice as a physician assistant in Arizona. As discussed above, only a licensed medical practitioner can dispense controlled substances in Arizona. Thus, because Registrant lacks authority to practice as a physician assistant in Arizona, and therefore is not a licensed medical practitioner, Registrant is not eligible to maintain a DEA registration in Arizona. Accordingly, the Agency will order that Registrant's DEA registration in Arizona be revoked.

ORDER

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. MB7529261 issued to Benson Sergiles, P.A. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Benson Sergiles, P.A., to renew or modify this registration, as well as any other pending application of Benson Sergiles, P.A., for additional registration in Arizona. This Order is effective **[INSERT DATE THIRTY DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

SIGNING AUTHORITY

This document of the Drug Enforcement Administration was signed on July 10, 2025, by Acting Administrator Robert J. Murphy. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has

been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Heather Achbach,
Federal Register Liaison Officer,
Drug Enforcement Administration.

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