

EFFECTIVE AS A FINAL ORDER

DATE: 8/26/24

FILED

AUG 05 2024

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**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

In the Matter of

Joseph M. Palumbo, D.O.

Kansas License No. 05-41142

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KSBHA Docket No. 25-HA 00006

SUMMARY ORDER

NOW ON THIS 5th **day of** August, 2024, this matter comes before Susan Gile, Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings under K.S.A. 77-537.

Under K.S.A. 77-537 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within 15 days of service. Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law, and order are made for and on behalf of the Board:

Findings of Fact

1. Joseph M. Palumbo, D.O. ("Licensee") is or has been entitled to be engaged in the practice of osteopathic medicine and surgery in Kansas, having been granted an Active license on June 19, 2018. Licensee's current license designation is Active.

2. Licensee's last mailing address known to the Board is: [REDACTED]

[REDACTED] Licensee's last email address known to the board is [REDACTED]

3. At all times relevant to this Summary Order Licensee held an Active license to practice osteopathic medicine and surgery in Kansas.

Joseph M. Palumbo, D.O.
License No. 05-41142
Summary Order

4. On or about November 25, 2023, Licensee agreed to a Consent Order (“Virginia Order”) with the Virginia Board of Medicine. (Bd. Ex. 1 – Virginia Order).

5. Per the terms of the Virginia Order, the Virginia Board of Medicine made the following findings of fact and conclusions of law regarding Licensee’s practice in that state:

“2. [Licensee] violated . . . the Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic (“Regulations”) in that as the medical director of IV vitamin infusion facilities in Virginia . . . and as the owner of a *locum tenens* agency that employed physicians, nurse practitioners, and physician assistants as independent contractors to provide medical services to these facilities, he aided and abetted the unlicensed practice of medicine at these facilities when he authorized and allowed facility staff to perform, outside of his direction, control and/or supervision and when he was not physically present, discretionary duties requiring the exercise of professional judgment . . . and to administer intravenous medications outside of his direction and supervision. Specifically, without physically examining patients, [Licensee] provided “standing orders” or protocols that allowed facility staff to perform initial patient assessments, allow patients to choose injectable medications from a menu, and inject patients with various combination products that included Schedule VI controlled substances such as Vitamin B3, Vitamin B12, glutathione, Vitamin C, and Zofran (ondansetron hydrochloride). He also allowed locum tenens practitioners to issue the same “standing orders” or protocols.

3. [Licensee] violated . . . the Regulations in that he allowed employees of the hydration facilities of which he was medical director to mix medications with normal saline or lactated ringers (i.e., compounding) and immediately administer these solutions to patients via IV slow push or IM, without ensuring that all personnel were appropriately trained in and utilized the practices and principles of disinfection techniques, aseptic manipulations, and solution compatibility; establishing and implementing procedures for verification of the accuracy of the mixed products; or developing and maintaining written policies and procedures to be followed in mixing of sterile products and for training of personnel.”

6. Per the terms of the Virginia Order, the Virginia Board of Medicine imposed disciplinary sanctions on Licensee as a result of his conduct; specifically, Licensee was fined \$5,000 and required to provide the Virginia Board of Medicine with a statement in which he agreed to comply with the statutes and regulations governing medical practice in that state.

Applicable Law

7. Under K.S.A. 65-2836(j) of the Kansas Healing Arts Act, a licensee's license may be revoked, suspended, or limited, or the licensee may be publicly censured or placed under probationary conditions, where "[t]he licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country."

Conclusions of Law

8. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

9. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with the provisions of K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of law and the protection of the public interest does not require the Board to give notice and opportunity to participate to non-parties.

10. The Board finds Licensee violated K.S.A. 65-2836(j), in that Licensee was censured, fined, and/or otherwise subject to disciplinary action by the proper licensing authority of the Virginia Board of Medicine. The Board therefore has authority to revoke, suspend, or limit Licensee's license, or to publicly censure or place Licensee under probationary conditions.

IT IS HEREBY ORDERED that Licensee is **PUBLICLY CENSURED** for his violation of K.S.A. 65-2836(j).

Joseph M. Palumbo, D.O.
License No. 05-41142
Summary Order

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 5th day of August, 2024.

KANSAS STATE BOARD
OF HEALING ARTS

Susan Gile

Susan Gile
Executive Director

Joseph M. Palumbo, D.O.
License No. 05-41142
Summary Order

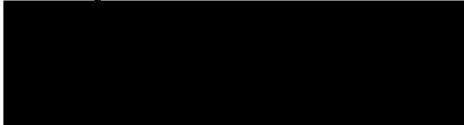
FINAL ORDER NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Susan Gile, Executive Director, Kansas Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the above and foregoing **FINAL ORDER** by depositing the same in the United States Mail, postage prepaid, on this 26th day of August 2024, addressed and emailed to:

Joseph M. Palumbo, D.O.



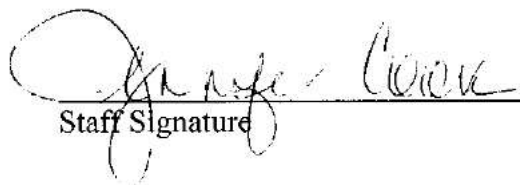
And a copy was hand-delivered to:

Matthew Gaus, Deputy Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
Matthew.gaus@ks.gov

Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Office of the General Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And the original was filed with the office of the Executive Director.



Staff Signature

EXHIBIT 01
Virginia Order

Joseph M. Palumbo, D.O.
Kansas License No. 05-41142

DHP – MAILROOM

NOV 13 2023

BEFORE THE VIRGINIA BOARD OF MEDICINE

IN RE: JOSEPH MATTHEW PALUMBO, D.O.
License Number: 0102-205333
Case Number: 228213

RECEIVED
NOV 13 2023

VA Board of Medicine

CONSENT ORDER

JURISDICTION AND PROCEDURAL HISTORY

The Virginia Board of Medicine ("Board") and Joseph Matthew Palumbo, D.O., as evidenced by their signatures hereto, in lieu of proceeding to an informal conference, enter into the following Consent Order affecting Dr. Palumbo's license to practice osteopathic medicine in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Joseph Matthew Palumbo, D.O., was issued License Number 0102-205333 to practice osteopathic medicine on June 28, 2018, which is scheduled to expire on July 31, 2024.
2. Dr. Palumbo violated Virginia Code §§ 54.1-2915(A)(3), (11), (13), (17), and (18), 54.1-3303(B), and 54.1-3408(B) and 18 VAC 85-20-29(A)(1) of the Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic ("Regulations") in that as the medical director of IV vitamin infusion facilities in Virginia (The Drip Bar RVA, Richmond, Virginia, Prime IV Hydration and Wellness/Hydrate 757, Norfolk, Virginia, and Precious Pure IV Hydration, Hampton, Virginia) and as the owner of a *locum tenens* agency that employed physicians, nurse practitioners, and physician assistants as independent contractors to provide medical services to these facilities, he aided and abetted the unlicensed practice of medicine at these facilities when he authorized and allowed facility staff to perform, outside of his direction, control and/or supervision and when he was not physically present, discretionary duties requiring the exercise of professional judgment within the meaning of Virginia Code § 54.1-2901(A)(6) and to administer intravenous medications outside of his

direction and supervision. Specifically, without physically examining patients, Dr. Palumbo provided "standing orders" or protocols that allowed facility staff to perform initial patient assessments, allow patients to choose injectable medications from a menu, and inject patients with various combination products that included Schedule VI controlled substances such as Vitamin B3, Vitamin B12, glutathione, Vitamin C, and Zofran (ondansetron hydrochloride). He also allowed *locum tenens* practitioners to issue the same "standing orders" or protocols.

3. Dr. Palumbo violated Virginia Code § 54.1-2915(A)(3), (13), (16), and (18) and 18 VAC 85-20-400(B) of the Regulations in that he allowed employees of the hydration facilities of which he was medical director to mix medications with normal saline or lactated ringers (i.e., compounding) and immediately administer these solutions to patients via IV slow push or IM, without ensuring that all personnel were appropriately trained in and utilized the practices and principles of disinfection techniques, aseptic manipulations, and solution compatibility; establishing and implementing procedures for verification of the accuracy of the mixed products; or developing and maintaining written policies and procedures to be followed in mixing of sterile products and for training of personnel.

CONSENT

Joseph Matthew Palumbo, D.O., by affixing his signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document and am represented by Brendan Little, Esq.;
2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;
3. I acknowledge that I have the following rights, among others: the right to an informal fact-finding conference before the Board; and the right to representation by counsel;

4. I waive my right to an informal conference;
5. I neither admit nor deny the Findings of Fact and Conclusions of Law contained herein but I waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;
6. I consent to the entry of the following Order affecting my license to practice osteopathic medicine in the Commonwealth of Virginia.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Medicine hereby ORDERS as follows:

1. Joseph Matthew Palumbo, D.O., is assessed a MONETARY PENALTY of \$5,000.00. This penalty shall be paid to the Board by certified check or money order made payable to the Treasurer of Virginia within 60 days from the date of entry of this Order. Failure to pay the full monetary penalty by the due date may cause the matter to be sent for collection and constitutes grounds for an administrative proceeding and further discipline.

2. Within 30 days from the date of entry of this order, Dr. Palumbo shall provide to the Board a review of, and a statement that he will comply with the Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic and with Virginia Code § 54.1-3303.

3. Any violation of the foregoing terms and conditions of this Order or any statute or regulation governing the practice of osteopathic medicine shall constitute grounds for further disciplinary action.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

A TRUE COPY TESTE:

Joseph Matthew Palumbo
VIRGINIA BOARD OF MEDICINE

Jennifer Deschenes
Jennifer Deschenes, J.D., M.S.
Deputy Executive Director
Virginia Board of Medicine

ENTERED: 11/15/23

SEEN AND AGREED TO:

Joseph Matthew Palumbo
Joseph Matthew Palumbo, D.O.

STATE OF Ohio
COUNTY/CITY OF Mahoning, TO WIT:

Subscribed and sworn to before me, a notary public in and for the State of Ohio at large, on
this 8th day of November, 2023.



Attorney Michael J. Palumbo
Resident Mahoning County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

Michael J. Palumbo
Notary Public

My commission expires: _____

Registration No.: _____