

COPY
PROTHONOTARY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF OSTEOPATHIC MEDICINE

SEP 13 2016
Department of State

In the Matter of the License to Practice as :
an Osteopathic Physician and Surgeon of : Docket No. 0792-53-17
Joseph Thomas Acri, D.O. : File No. 16-53-10805
License No. OS009263L :

NOTICE OF AUTOMATIC SUSPENSION

WHEREAS, the records of the State Board of Osteopathic Medicine (“Board”) reflect that **Joseph Thomas Acri, D.O.** (“Respondent”), is the holder of a license to practice osteopathic medicine in the Commonwealth of Pennsylvania, license no. OS009263L; and

WHEREAS, the Prosecuting Attorney for the Commonwealth has filed a Petition for Automatic Suspension (appended as Attachment “A”) including certified copies of the certified criminal docket, the police criminal complaint, and the affidavit of probable cause in support of criminal complaint filed in the matter of Commonwealth of Pennsylvania v. Joseph Thomas Acri in magisterial district court 09-3-04 at docket number MJ-09304-CR-0000060-2016 and the Information and the September 7, 2016 Order of Court accepting Respondent’s pleas of guilty to Counts 1 through 4 of the Information in the matter of the Commonwealth of Pennsylvania v. Joseph Thomas Acri in the Court of Common Pleas of Cumberland County, Pennsylvania, at docket number CP-21-0551-2016; and

WHEREAS, Counts 1 through 4 of the Information charged Respondent with the Unlawful Administration, Dispensing, Delivery, Gift, or Prescription of a Controlled Substance by a Practitioner in violation of the Controlled Substance, Drug Device and Cosmetic Act (“Drug Act”), Act of April 14, 1972, P.L. 233 as amended, at 35 P.S. § 780-113(a)(14); and

WHEREAS, on September 7, 2016, Respondent entered a plea of guilty in the matter of the Commonwealth of Pennsylvania v. Joseph Thomas Acri, D.O. in the Court of Common Pleas of Cumberland County, Pennsylvania at docket number CP-21-0551-2016 to Counts 1 through 4 of the Information, Unlawful Administration, Dispensing, Delivery, Gift, or Prescription of a Controlled Substance by a Practitioner; and

WHEREAS, the Drug Act at 35 P.S. § 780-113(a)(14), provides as follows:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

* * *

(14) The administration, dispensing, delivery, gift or prescription of any controlled substance by any practitioner or professional assistant under the practitioner's direction and supervision unless done (i) in good faith in the course of his professional practice; (ii) within the scope of the patient relationship; (iii) in accordance with treatment principles accepted by a responsible segment of the medical profession.

35 P.S. § 780-113(a)(14); and

WHEREAS, the Drug Act at 35 P.S. § 780-113(f)(2), classifies violations of section 113(a)(14) as follows:

(f) Any person who violates clause . . . (14) . . . of subsection (a) . . .

* * * *

(2) Any other controlled substance or counterfeit substance classified in Schedule I, II, or III, is guilty of a felony and upon conviction thereof shall be sentenced to imprisonment not exceeding five years, or to pay a fine not exceeding fifteen thousand dollars (\$ 15,000), or both.

35 P.S. § 780-113(f)(2); and

WHEREAS, the controlled substance at issue in Respondent's criminal case was Oxycodone, which is a Schedule II controlled substance; and

WHEREAS, the criminal offenses of violating the Drug Act at 35 P.S. § 780-113(a)(14) as referenced in Counts 1 through 4 of Information in the matter of the Commonwealth of Pennsylvania v. Joseph Thomas Acri, D.O. in the Court of Common Pleas of Cumberland County, Pennsylvania at docket number CP-21-0551-2016 to which Respondent pled guilty is a felony under subsection 113(f)(2) of the Drug Act, 35 P.S. § 780-113(f)(2); and

WHEREAS, section 14(b) of the Osteopathic Medical Practice Act (Act), Act of October 5, 1978, P.L. 1109, No. 261, as amended, provides in part:

(b) A license or certificate issued under this act shall automatically be suspended upon . . . conviction of a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," . . . As used in this section the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this section shall not be stayed pending any appeal of a conviction. Restoration of such license or certificate shall be made as in the case of revocation or suspension of license or certificate.

63 P.S. § 271.14(b); and

WHEREAS, section 14.1 of the Act provides in part:

Any person whose license, certificate or registration has been revoked may apply for reinstatement after a period of at least five years, but must meet all of the licensing qualifications of this act for the license applied for, to include the examination requirement, if he or she desires to practice at any time after such revocation.

63 P.S. § 271.14a; and

WHEREAS, section 6(c) of the Act provides in part:

An applicant who has been convicted of a felonious act prohibited by the act of April 14, 1972 (P.L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory, or country shall not be licensed unless:

- (1) at least ten years have elapsed from the date of conviction;
- (2) the applicant satisfactorily demonstrates to the board that he has made significant progress in personal rehabilitation since the conviction such that licensure of the applicant should not be expected to create a substantial risk of harm to the health

and safety of patients or the public or a substantial risk of further criminal violations; and

- (3) the applicant otherwise satisfies the qualifications contained in or authorized by this act.

63 P.S. § 271.6(c);

NOW THEREFORE, this 1st day of May 2017, the Board concludes that the offenses to which Respondent pled guilty to on September 7, 2016, were felonies under the Drug Act, and that the license of Respondent **Joseph Thomas Acri, D.O.**, license no. OS009263L, shall be **AUTOMATICALLY SUSPENDED**, from the date of conviction, under the authority of section 14(b) of the Act, 63 P.S. § 271.14(b), effective immediately.

Should Respondent choose to file an answer to the petition and request a hearing, Respondent must do so by May 22, 2017, 20 days after the effective date of this order. If Respondent files an answer and request for hearing, the suspension of Respondent's license shall remain in effect until a final order is issued addressing the issues raised in the answer. Responses to the Petition and any hearing held in connection with the response shall be limited to the issue of whether Respondent was convicted of the offense(s) as alleged in the Petition.

Responses to the Petition and a request for hearing shall be filed with Prothonotary, Bureau of Professional and Occupational Affairs, 2601 North Third Street, Harrisburg, PA 17110. A copy of any answer, request for hearing or petition for stay shall be served on the Prosecuting Attorney identified in the petition at the address set forth below.

Any hearing in connection with this matter shall be scheduled within 30 days of receipt of the request for a hearing. Continuances will only be granted for good cause shown.

If a response to the Petition and a request for a hearing is not filed within the time period set forth above, Respondent's license will remain automatically suspended and a Final Order to that effect will be issued forthwith.


**BUREAU OF PROFESSIONAL
AND OCCUPATIONAL AFFAIRS**



IAN J. HARLOW
COMMISSIONER

BY ORDER:

**STATE BOARD OF OSTEOPATHIC
MEDICINE**



FRANK M. TURSI, D.O.,
CHAIRMAN

Respondent's Addresses:

Joseph Thomas Acri, D.O.
1709 Kent Road
Camp Hill, PA 17011

Joseph Thomas Acri, D.O.
243 North 24th Street
Camp Hill, PA 17011

For the Commonwealth:

Mark R. Zogby, Esquire

Board Counsel:

Wesley J. Rish, Esquire

Date of Mailing:

May 1, 2017