



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-283A

Kim Glazier, Executive Director
Oklahoma Board of Nursing
2915 N. Classen Blvd., Ste. 524
Oklahoma City, Oklahoma 73106

July 18, 2018

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Board of Nursing intends to take pursuant to consent agreement in case 6.056.18. The licensee's registered nurse (RN) and licensed practical nurse (LPN) licenses are lapsed. The licensee has a prior history of irregular removal, and failure to document the administration and/or waste, of Controlled Dangerous Substance (CDS) medications. The licensee submitted a RN reinstatement application and requested referral to the Board's Peer Assistance Program (PAP). The Board proposes to grant the application, temporarily suspend the RN license pending acceptance to PAP, and impose additional conditions on the RN license in the event the licensee is not accepted or terminates/defaults from the PAP.

The Oklahoma Nursing Practice Act authorizes the Executive Director of the Board to enter "agreed disciplinary orders requiring a[] . . . licensee to enter and comply with the [PAP]." 59 O.S.Supp.2017, § 567.4(F)(2), (3),(b). The Act also authorizes the Board to impose discipline when a nurse "fails to adequately care for patients or to conform to the minimum standards of acceptable nursing" in a way that "unnecessarily exposes a patient or other person to risk of harm," "is guilty of unprofessional conduct," "is guilty of any act that jeopardizes a patient's life, health or safety," or "violate[s] a rule promulgated by the Board, an order of the Board, or a state or federal law relating to the practice of . . . nursing . . . , or a state or federal narcotics or [CDS] law." 59 O.S.Supp.2017, § 567.8(B)(3), (7-9). Board rules provide that adherence to minimum standards of acceptable nursing means using "sufficient knowledge or reasonable skill." OAC 485:10-11-1(b)(2). "Unprofessional conduct" includes "conduct detrimental to the public interest" and "fail[ing] to maintain proper custody of [CDS] of the patient or the agency." OAC 485:10-11-(b)(3)(H), (T). Conduct that jeopardizes a patient's life, health or safety includes "fail[ing] to utilize appropriate judgment in administering safe nursing practice or patient care assignment." OAC 485:10-11-1(b)(4)(D). The Board may reasonably believe that the proposed actions are necessary to ensure that nurses are practicing unimpaired.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Board of Nursing has adequate support for the conclusion that this action advances the State's policy to protect public health, safety, and welfare by ensuring nurses meet minimum standards of professional conduct.



MIKE HUNTER
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