



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-712A

Billy H. Stout, M.D., Board Secretary
Oklahoma State Board of Medical Licensure
and Supervision
101 N.E. 51st Street
Oklahoma City, OK 73105

September 29, 2017

Dear Dr. Billy H. Stout, M.D., Board Secretary:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take in Board case number 16-12-5403, with respect to Medical Doctor License 22105. The proposed action is to enter into an "Order Accepting Voluntary Submittal to Jurisdiction." In accordance with that Order, the Board will issue a formal reprimand to the licensee; impose a \$5,000 fine on the licensee; require the licensee to follow the recommendations of a Professional Renewal Center-PRC assessment; require the licensee to pay all the costs of the action authorized by law, including without limitation, legal fees, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees; and place various other restrictions and conditions on the licensee's license to practice medicine.

This case arose from information forwarded to the Board from the Oklahoma Board of Pharmacy indicating that the licensee prescribed medications to herself under a different last name. The licensee is married. Accordingly, the licensee's maiden name differs from the licensee's married name. The licensee applied for her Oklahoma medical license using her maiden name and has maintained the license under that name. Pharmacy records indicate that between the dates of January 1, 2016 and November 14, 2016 the licensee, using her maiden name, issued 15 prescriptions for Tylenol #4 (Tylenol with 60 mg Codeine), for a total of 1,375 tablets, to herself under her married name. On December 8, 2016, a Board investigator and 2 Oklahoma Bureau of Narcotics agents met with the licensee at the licensee's office. During the interview, the licensee admitted she kept her maiden name on her medical license. The licensee initially denied any knowledge of prescriptions from her maiden name to her married name. However, after several minutes the licensee admitted to writing and filling prescriptions for personal use from her maiden name to her married name. The licensee relayed that the licensee had old injuries sustained in a car wreck and did not ever use the medications while working but would take them at night to help with pain and to help get to sleep. The licensee also claimed to have fibromyalgia and that the medication helped with that condition as well. The licensee also admitted to issuing 2 prescriptions to the licensee's son (Concerta and Methylphedidate) for ADD. The licensee stated that the licensee's son's doctor had stopped practicing and that the licensee wrote the prescriptions so the

licensee's son would not have a lapse in his medications while the licensee found him another provider. The licensee surrendered the licensee's OBN and DEA registrations and executed an Agreement Not to Practice with the Board which was later rescinded by agreement of the licensee and Board staff after the licensee acquired an assessment from the Professional Renewal Center. Subsequently, the licensee also entered into a contract with Oklahoma Health Professional's Program.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2016, §§ 480 – 518.1, authorizes the Board to “suspend, revoke or order any other appropriate sanctions against the license of any physician or surgeon holding a license to practice in this state for unprofessional conduct[.]” 59 O.S.Supp.2016, § 503; *see* also 59 O.S.2011, § 513(A)(1). The disciplinary actions the Board is authorized to take against its licensees include, but are not limited to, “[r]eprimand[s];” “[a]dministrative fines of up to Five Thousand Dollars (\$5,000.00) per violation[;]” imposing “[s]tipulations, limitations, restrictions, and conditions relating to practice;” requiring the “[s]atisfactory completion of an educational, training, and/or treatment program or programs;” “impos[ing] . . . the payment of costs expended by the Board for any legal fees and costs and probation and monitoring fees including, but not limited to, staff time, salary and travel expense, witness fees and attorney fees;” and “require[ing] professional competency, physical, mental, or chemical dependency examinations of any licensee, including withdrawal and laboratory examination of body fluids.” 59 O.S.2011, § 509.1(A)(4), (6), (8), (9) and (C). Unprofessional conduct includes, but is not limited to “[h]abitual intemperance or the habitual use of habit-forming drugs[.]” “[t]he writing of false or fictitious prescriptions for any drugs or narcotics declared by the laws of this state to be controlled or narcotic drugs[.]” “[p]rescribing any regulated substance in Schedule I through V, as defined by the Uniform Controlled Dangerous Substance Act, for the physician’s personal use[.]” and “[p]rescribing . . . any drug legally classified as a controlled substance or recognized as an addictive dangerous drug to a family member or to himself or herself.” *Id.* § 509(4), (11); OAC 435:10-7-4(3), (5), (26). Furthermore, the Board’s rules specifically authorize the Board to “accept a Voluntary Submittal to Jurisdiction entered into by staff and defendant.” OAC 435:5-1-5.1. The Board’s proposed action seeks to ensure professional conduct on the part of its licensees. The Board may reasonably believe that its proposed action is necessary to deter future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma’s policy of protecting the health, safety and well-being of the citizens of Oklahoma.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



RYAN CHAFFIN
DEPUTY CHIEF – ASSISTANT ATTORNEY GENERAL