



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-742A

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

October 19, 2017

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 a consent agreement in case 3.106.18. The Board proposes to issue a severe reprimand and require the licensee to (i) submit an evaluation for Board review; (ii) submit to periodic drug screens until the evaluation is reviewed; (iii) complete additional education courses; and (iv) pay a \$500 administrative penalty.

In 2012, the licensee, a licensed practical nurse, pled guilty to 3 felony counts of Bringing Contraband into Jail/Penal Institutions. This resulted in the licensee entering into a Stipulated Settlement and Order (SSO) with the Board. On February 19, 2014, the licensee's license was suspended for violating the terms of SSO. The licensee applied for reinstatement on July 30, 2014, which the Board granted with terms of the SSO to remain in effect with probation.

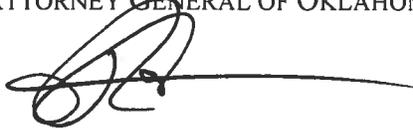
In February 2017, while working at a care center, the licensee documented the removal but failed to document the administration or waste of 10 doses of Percocet 10 mg, a Schedule II Controlled Dangerous Substance (CDS) medication, for two residents. The residents reported that they did not receive the medication while the licensee was assigned to provide their care. The licensee was subsequently terminated.

The Oklahoma Nursing Practice Act authorizes the Board to impose discipline when a nurse "[i]s guilty of unprofessional conduct" or has "[v]iolated . . . a state or federal narcotics or controlled dangerous substance law." 59 O.S.Supp.2016, § 567.8(B)(7), (9). "Unprofessional conduct" includes "falsely manipulating drug supplies, narcotics or patient records," "appropriating without authority medications, supplies or personal items of the patient or agency," "failure to maintain proper custody and control of controlled dangerous substances of the patient or agency," and "diversion or attempts to divert drugs or controlled substances[.]" OAC 485:10-11-1(b)(3)(C), (D), (T), (U). For violations of the Act, the Board may assess administrative penalties and "otherwise discipline licensees." 59 O.S.Supp.2016, § 567.8(A)(2)-(3). The Board may reasonably believe that the proposed action is necessary to deter future violations and to protect patients by ensuring that nurses are working substance free.

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 provide adequate care uncompromised by substance abuse and meet minimum standards of professional conduct.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



RYAN CHAFFIN
DEPUTY CHIEF – ASSISTANT ATTORNEY GENERAL