



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-511A

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

August 9, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Board of Nursing intends to take in Board case 3.004.17. The proposed action is to severely reprimand the licensee. The license will remain suspended until the licensee is accepted into the Board's Peer Assistance Program, a drug and alcohol assistance program. If the licensee is not accepted or defaults from the program, the license will be revoked for two years. Prior to reinstatement the licensee must pay a fine of \$2,500 and investigative costs of \$770.73 and meet the Board's guidelines for reinstatement following discipline for drug or alcohol abuse, including random drug tests and self-help programming. In May 2014, the licensee, while working in a hospital, displayed impaired behavior including unfocused work and groggy, slow movements. On one occasion, the licensee failed to remove packing from a patient's wound, despite clear direction from a supervisor. The licensee also took controlled dangerous substance ("CDS") medications from the hospital, including vials and needles, and kept them at home for personal use. Some of the items taken from the hospital belonged to patients and contained protected health information. The licensee was terminated from the hospital, and later admitted to opiate addiction. The licensee entered the Board's Peer Assistance Program, but later defaulted from the program.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes the Board to impose discipline when a nurse “[f]ails to adequately care for patients or to conform to the minimum standards of acceptable nursing” in a way that “exposes a patient or other person to risk of harm,” is “intemperate in the use of alcohol or drugs” in a manner that “could endanger patients,” is “guilty of unprofessional conduct,” is “guilty of any act that jeopardizes a patient's life, health or safety,” violates state or federal law related to nursing, or “[h]as defaulted from the Peer Assistance Program for any reason,” 59 O.S.Supp.2015, § 567.8(B)(3), (4), (7), (8), (9), (11). Unprofessional conduct includes “falsely manipulating drug supplies, narcotics or patient records,” appropriating medications without authority, “violating the confidentiality of information or knowledge concerning [a] patient by any means,” failing to maintain proper custody and control of CDS medications, and diversion of drugs or controlled substances. OAC 485:10-11-1(b)(3)(C), (D), (G), (T), (U). Conduct which jeopardizes a patient's life, health, and safety includes a nurse's “[f]ailure to utilize appropriate judgment in administering safe nursing

practice.” OAC 485:10-11-1(b)(4)(D). The action seeks to enforce requirements aimed at ensuring that nursing care is not compromised by substance abuse and that nurses properly account for CDS medications. The Board may reasonably believe that the action is necessary to deter future violations.

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 of Oklahoma’s policy to protect the public health, safety, and welfare.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is stylized and somewhat cursive, with a large initial "E" and "P".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA