



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2016-7A

John A. Foust, D.Ph., Pharm.D.  
Executive Director  
State Board of Pharmacy  
2920 N. Lincoln Blvd., Ste. A  
Oklahoma City, Oklahoma 73105

January 7, 2016

Dear Executive Director Foust:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Pharmacy intends to take pursuant to a consent agreement with pharmacist licensee 15523, a pharmacy licensee's pharmacist-in-charge. The proposed action is to place the licensee on probation for two years; impose fines totaling \$2,000; require attendance of a one-day law seminar in addition to other continuing education requirements during 2016 and 2017; and require live attendance of all continuing education courses during 2016 and 2017. The licensee must also attend a Board-approved compounding course. The licensee had compounded a commercially available product and used the incorrect formula when compounding the drug, which resulted in a drug not used for human treatment.

The Oklahoma Pharmacy Act seeks to "promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of pharmacy" within the State. 59 O.S.2011, § 353(B). The practice of pharmacy includes compounding drugs. 59 O.S.Supp.2015, § 353.1(37)(b). The Act authorizes the State Board of Pharmacy to promulgate rules necessary for the regulation of pharmacy and protection of public health, 59 O.S.Supp.2015, § 353.7(14), and the Board has promulgated rules regulating pharmacies and other registrants with the Board, *see, e.g.*, OAC 535:15-3-2. The rules require that pharmacists engaged in compounding "ensure preparations are of acceptable strength, quality, and purity" and that they "verify all critical processes to ensure that procedures will consistently result in the expected qualities in the finished preparation." OAC 535:15-10-3(c)(4)-(5). The Board's rules also prohibit pharmacists from compounding commercially available drugs without specific medical needs. OAC 535:15-10-8(h)(1)-(2).

The action seeks to enforce rules that ensure pharmacies maintain quality standards when producing drugs and that they do not dispense commercially available products regulated by the United States Food and Drug Administration. The Board may reasonably believe that fines and probation with training requirements will adequately prevent future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Pharmacy 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 "Scott Pruitt". The signature is stylized with a large, sweeping initial "S" and a prominent horizontal stroke above the "P".

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA