



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-323A

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

May 31, 2016

Dear Board Secretary Stout:

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 pursuant to a consent agreement with respect to respiratory care licensee 1244. The proposed action is to impose terms of probation to continue indefinitely until removed by the Board. The terms of probation include entering into a peer-based substance abuse monitoring program, participating in an intensive outpatient substance abuse program, notifying employers of the probation and obtaining Board permission before changing employers, providing certain kinds of mental health and substance abuse information to the Board, and staying current on all payments, including a \$150 per month probation fee.

The licensee had been prescribed several controlled dangerous substances, including hydrocodone and alprazolam. On at least one occasion, the licensee had to leave work because of impaired work ability; on another occasion, the licensee entered inpatient substance abuse treatment, but continued taking medication inconsistently with the terms of licensee's discharge from treatment.

The Respiratory Care Practice Act, 59 O.S.2011 & Supp.2015, §§ 2026–2045, authorizes the Board to discipline licensees who are “addicted to, or ha[ve] improperly . . . used . . . habit-forming drugs or narcotics” or who are “guilty of unprofessional conduct as defined by the rules established by the Board,” 59 O.S.2011, § 2040(4), (9). The Board’s rules clarify that “unprofessional conduct” includes the “intemperate or addicted use of any drug, chemical or substance which could result in behavior that interferes with the practice of respiratory care.” OAC 435:45-5-3(a)(1).

Here, the licensee has exhibited an ongoing problem with substance abuse to the point of direct work impact. The Board may reasonably believe that the agreed terms of probation identified with the licensee are necessary to protect patient safety and public health while allowing the licensee to continue practicing respiratory care.

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 upholding minimum standards of professionalism in the practice of respiratory care.

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

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA