



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-505A

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 3.008.17. The proposed action is to revoke the license for two years. Prior to reinstatement, the licensee must pay investigative costs of \$670.92 and must meet the Board's guidelines for reinstatement following discipline for drug or alcohol abuse, including random drug tests and self-help programming. Upon reinstatement, the license will be temporarily suspended until the licensee re-enters the Board's Peer Assistance Program, a drug and alcohol assistance program. If the licensee is not accepted into or defaults from the program, a \$9,500 fine must be paid. On several occasions in December 2013, the licensee, while employed at a hospital, removed controlled dangerous substance ("CDS") medications on behalf of patients and failed to document the administration or waste of the drugs. Subsequently, a syringe containing CDS medication was found in the licensee's pocket and the licensee refused a for-cause drug-screen. The licensee was terminated from the hospital. The licensee later admitted to abusing opiates and entered the Board's Peer Assistance Program, a drug and alcohol assistance program. In January 2015, the licensee 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," [i]s 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 appropriating medications without authority, failing to maintain proper custody and control of CDS medications, and diversion of drugs or controlled substances. OAC 485:10-11-1(b)(3)(D), (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 "Scott Pruitt". The signature is stylized with a large initial "S" and a prominent "P".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA