



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-42A

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

October 6, 2015

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 with regard to the reinstatements of physician's assistant license 699 and medical licenses 11663, 25353, and 24742. The proposed action is to impose restrictions on the professional practice of each licensee in conjunction with reinstating each license. Each set of restrictions includes common terms such as complying with applicable laws; furnishing copies of restriction documents to other states when seeking licensure or at hospitals; keeping current address information and maintaining the currentness of payments; and, upon request, turning over records or being personally available.

Licensee 699 had been investigated and voluntarily surrendered a license to avoid prosecution; that licensee will have additional restrictions, including not supervising other health professionals; a five-year term of probation; supervisors and job location approval; minimum supervision requirements; taking ethics courses; seeking counseling; not ingesting any controlled substances without medical justification; and completing a treatment contract with Oklahoma Health Professionals Program, Inc.

Licenses 11663 and 25353 will have medical licenses reinstated after a long period of non-practice. Licensees 11663 and 25353 will each have the basic terms along with additional terms, including seeking approval of employment positions or changes in responsibility and appearing at a one-year review. Licensee 11663 will be restricted to administrative medical positions while licensee 25353—after having possibly driven under the influence of alcohol or other substances last year—will have to send notices of any charges or violations involving driving under the influence of alcohol or other substances, including complaints at a place of employment involving intoxication or severe hangovers.

Licensee 24742, currently living and working in Texas, will also have a medical license reinstated after drug prescribing violations. That licensee will have the basic terms but, like licensee 25353, will have to send notices of charges or violations involving substance abuse. Licensee 24742 will also have to submit to blood, hair, and urine testing with quarterly reports

on results; limit medications ingested to those where a legitimate medical need exists; must give notice of any relapse; and must complete treatment under an existing Monitoring and Assistance Agreement with the Texas Physician Health Program running until August 22, 2018. If licensee 24742 seeks to move to Oklahoma, the licensee must seek approval and must switch treatment to Oklahoma Health Professionals Program, Inc.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2014, §§ 480–519, authorizes the Board require “satisfactory evidence of professional competence and good moral character” when reinstating a license to practice medicine, 59 O.S.2011, § 495h. The Board’s administrative rules clarify that “[i]ndiscriminate or excessive prescribing, dispensing or administering of” controlled substances as well as the “habitual or excessive use of any drug which impairs the ability to practice medicine” qualify as unprofessional conduct. OAC 435:10-7-4(1), (3). The conditions on reinstatement described above seek to ensure that licensees 11663, 25353, and 24742 have reasonable competence in practicing medicine and, for those who have had substance abuse issues in the past, that those issues are monitored so that the physicians have the opportunity practice.

The Physician Assistant Act, 59 O.S.2011 & Supp.2014, §§ 519.1–524, has similar provisions. A physician assistant must “[b]e of good moral character” and have requisite educational qualifications to seek certification. 59 O.S.2011, § 519.4(1). The rules governing physician assistants bar “[h]abitually us[ing] intoxicating liquors or habit-forming drugs.” OAC 435:15-5-11(1). The conditions imposed on licensee 699 ensure that the licensee will be able to practice with reasonable competence while monitoring any substance abuse issues.

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 to protect public health and ensure patient welfare.



E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA