



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-512A

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 3.025.17. The proposed action is to suspend the license pending a hearing on the Board's complaint. The licensee has criminal history including pleading guilty to 2012 charges of driving under the influence ("DUI") and unsafe lane use. During the licensee's shift as charge nurse in a long-term care center, two residents died within a short period of time. The licensee failed to initiate cardiopulmonary resuscitation ("CPR") for one of the two residents, who was found not breathing and without a pulse. The licensee did not notify a physician or nursing supervisor or timely document assessments or the licensee's activities after the residents died. Three days later, the licensee refused a for-cause drug screen and was terminated from the center. The licensee also failed to appear for subsequent Board investigations in November 2015 and April 2016 as well as the Board's July 21, 2016 hearing. The Board sent notice of the hearing to the licensee by mail and tried to reach the licensee by email and phone.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes the Board to impose discipline when a nurse "[i]s guilty of a felony, or any offense reasonably related to the qualifications, functions or duties of any licensee," "[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 "guilty of unprofessional conduct," or "[i]s guilty of any act that jeopardizes a patient's life, health or safety," 59 O.S.Supp.2015, § 567.8(B)(2), (3), (7), (8). Unprofessional conduct includes "failure to cooperate with a lawful investigation by Board of Nursing staff." OAC 485:10-11-1(b)(3)(V). Conduct which jeopardizes a patient's life, health or safety includes "[f]ailure to utilize appropriate judgment in administering safe nursing practice." OAC 485:10-11-1(b)(4)(D). "Notice of change of address must be submitted in writing by each licensee within 30 days of the change." OAC 485:10-9-9(c). When it appears that a nurse may pose a danger to patients, and the nurse does not cooperate with the Board's investigation, then it is sensible to temporarily suspend the license until the truth of allegations can be determined in a hearing. The action enforces requirements that nurses provide adequate care. The Board may reasonably believe that temporarily suspending the license is necessary to

protect patients, especially in a case where patients have died in conjunction with a failure to follow nursing protocol.

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, sweeping initial "S" and a horizontal line extending from the end.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA