



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-487A

Kim Glazier, Executive Director
Oklahoma Board of Nursing
2915 N. Classen Blvd., Ste. 524
Oklahoma City, Oklahoma 73106

August 5, 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 pursuant to a consent agreement in Board case 3.051.17. The proposed action is to temporarily suspend the license and require the licensee to undergo an evaluation including fitness to practice nursing and submit to body fluid testing twice per month. Any violations connected to the body fluid tests will result in the temporary suspension of the license remaining in effect. The licensee must also complete a nursing law course and pay a \$500 fine. Failure to comply with the primary provisions of the order will result in a three month suspension of the license and additional fines. The licensee, while working as a charge nurse in a long-term care facility, took delivery of controlled dangerous substance (“CDS”) medications from a pharmacy courier and then put the medications in the licensee’s car. The licensee was subsequently charged for felony possession of the CDS medications and pled no contest.

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 “unnecessarily exposes a patient or other person to risk of harm,” is “guilty of unprofessional conduct[,]” is “guilty of any act that jeopardizes a patient's life, health or safety,” or violates any state or federal statutes or regulations relevant to the practice of nursing, 59 O.S.Supp.2015, § 567.8(B)(2), (3), (7), (8), (9). Unprofessional conduct includes falsely manipulating drug supplies, appropriating medications without authority, failing to maintain custody of CDS medications, and diversion of drugs or controlled substances. OAC 485:10-11-1(b)(3)(C), (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 that nurses properly account for CDS medications. The Board may reasonably believe that the action will 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 by ensuring nurses meet minimum professional standards.

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a long horizontal line extending to the right from the end of the signature.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA