



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-92A

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

February 17, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action to be taken by the Oklahoma Board of Nursing pursuant to a consent agreement in Board case 3.136.16. The proposed action is to require the licensee to complete courses in the care, custody, and control of controlled dangerous substances; nursing documentation; nursing law; and the responsibilities of licensed practical nurses. The action also requires body fluid testing twice a month until a substance abuse evaluation can be completed; imposes a \$1,000 penalty; and requires supervised practice for 12 months.

The licensee did not assess a patient after a fall. The patient then complained of pain and requested a transfer to a hospital, after which the licensee ordered emergency medical services but exited the facility until after the patient was taken. The licensee was found asleep at a desk later that night during the licensee's shift. On another occasion, the licensee removed a controlled dangerous substance without documenting its waste or administration. A few days later, the licensee displayed impaired behavior and removed a drug five hours before the next physician-ordered time for administration. The licensee did not document the waste or administration of that drug. The licensee also altered drug records. A few days after that, the licensee refused a drug test.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes the Board to impose discipline when nurses' inadequate care "unnecessarily exposes a patient or other person to risk of harm," when their behavior indicates their nursing care would be compromised by the "use of alcohol, drugs, chemicals, or any other substance," when they are guilty of "unprofessional conduct as defined in the rules of the Board," and when they are "guilty of any act that jeopardizes a patient's life, health or safety," 59 O.S.Supp.2015, § 567.8(B)(3), (5), (7), (8). The Board's rules define "unprofessional conduct" to include altering or falsifying records as well as a variety of misconduct involving controlled dangerous substances, including their misappropriation. *See* OAC 485:10-11-1(b)(3)(A), (C), (D), (T), (U).

The licensee's interactions with the patient that fell may have increased the risk of harm to that patient. The licensee's failure to record the administration or waste of several narcotics indicates

their potential diversion or at the least very poor recordkeeping, and licensee's impaired behavior at work further indicates personal use of narcotics. In light of the number of occurrences of the misconduct, the Board may reasonably believe that additional education, fines, supervised practice, and a substance abuse evaluation are necessary for advancing the statutory directives.

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 of upholding minimum standards of care and of professionalism within the nursing profession.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is stylized with a large initial "E" and a prominent flourish at the end.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA