



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2016-45A

John A. Foust, D.Ph., Pharm.D.  
Executive Director  
State Board of Pharmacy  
2920 N. Lincoln Blvd., Ste. A  
Oklahoma City, Oklahoma 73105

January 28, 2016

Dear Executive Director Foust:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Pharmacy intends to take pursuant to a consent agreement with pharmacist licensee 13183. The proposed action is to impose fines of \$5,000; require the licensee to attend a one-day law seminar; and require that all continuing education in 2016 be live. The licensee, despite being the pharmacist-in-charge of a pharmacy in Bartlesville, signed applications for both a new pharmacy in Oklahoma City as its pharmacist-in-charge and for a pharmacy in Florida as its pharmacist-in-charge. The licensee does not have a pharmacist license in Florida, and there has been no indication that the licensee intended to move jobs.

The Oklahoma Pharmacy Act, 59 O.S.2011 & Supp.2015, §§ 353–355.2, requires that anybody seeking to sell “dangerous drugs, medicines, chemicals or poisons” outside certain narrow exceptions obtain a license from the Board, 59 O.S.Supp.2015, § 353.18(A)(1). These pharmacy licensees must be “under the management and control of a . . . pharmacist-in-charge.” *Id.* § 353.18(A)(2)(c). The Board’s administrative rules require that the pharmacist-in-charge be able to fulfill oversight responsibilities including the “supervision of all employees as they relate to the practice of pharmacy,” which also requires working “sufficient hours in the pharmacy to exercise control” and only being the pharmacist-in-charge at one facility. OAC 535:15-3-2(b)(1)(A), (3), (4). Further, out-of-state pharmacy licensees must employ pharmacists who are licensed in the state in which the pharmacy operates. OAC 535:15-3-9(c)(1).

The action seeks to enforce these requirements in circumstances where the Board has concluded that the licensee served as a pharmacist-in-charge in Oklahoma City, signed as the pharmacist-in-charge for a facility in Bartlesville, and even signed as one for a facility in Florida, a state where licensee is not a licensed pharmacist. The Board may reasonably believe that moderate fines and educational requirements are necessary to deter this and other licensees from engaging in further violations that undermine the statutory policy of having a pharmacy manager at each pharmacy.

It is, therefore, the official opinion of the Attorney General that the State Board of Pharmacy 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 "E. Scott Pruitt". The signature is written in a cursive, somewhat stylized font.

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA