



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

**ATTORNEY GENERAL OPINION
2016-41A**

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

January 27, 2016

Dear Executive Director Foust:

This office has received your request for a written Attorney General Opinion regarding agency actions that the State Board of Pharmacy intends to take pursuant to consent agreements regarding pharmacy technician permittees T-17980, T-18748, and T-19431. The Board also intends to take action without a consent agreement regarding permittee T-11669. The proposed actions are to revoke each permit.

The Board and permittee agreed, or the evidence showed, that in each case a permittee had stolen from an employer. Permittee T-11669 had stolen two forms of adderrall; permittee T-17980 had stolen significant amounts of hydrocodone and oxycodone along with other drugs; permittee T-18748 had stolen some \$20,000 in cash through fraudulent merchandise returns; and permittee T-19431 stole bottled water, snacks, and several drugs including Clonazepam.

The Oklahoma Pharmacy Act seeks to “promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of pharmacy” within the State. 59 O.S.2011, § 353(B). The Act authorizes the State Board of Pharmacy to promulgate rules necessary for the regulation of pharmacy and protection of public health, 59 O.S.Supp.2015, § 353.7(14), and the Board has prohibited theft of any material from an employer and violation of other applicable laws, OAC 535:25-9-3; OAC 535:25-9-7. State law prohibits possession of a controlled dangerous substance not validly obtained pursuant to a prescription or otherwise. 63 O.S.Supp.2015, § 2-402(A)(1).

The actions seek to enforce these requirements and protect the public health by preventing the permittees from having ongoing access to controlled dangerous substances or other pharmacy employer assets. The Board has a reasonable basis for concluding it necessary to revoke each permit and thereby prevent these individuals from further employment in sensitive functions at pharmacies.

It is, therefore, the official opinion of the Attorney General that the Executive Director of the State Pharmacy Board 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 fluid and cursive, with a large initial "S" and a long horizontal stroke extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA