



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-38A

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

January 22, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action to be taken under the auspices of the Oklahoma Board of Nursing with respect to Board case 6.007.16. The proposed action is to refer a licensee to the Peer Assistance Program, a substance abuse treatment program, and to reinstate the licensee's suspended license upon entry into the program. Under the action, default from the treatment program would result in revocation for five years and a requirement that licensee pay a \$2,000 fine prior to any later reinstatement.

The licensee had identified medication as being intended for one patient when it was prescribed for another and displayed erratic behavior that resulted in for-cause drug testing. The testing revealed the presence of numerous narcotics. The licensee was referred to substance abuse treatment, defaulted from the program, and had a license suspended before requesting the opportunity for further treatment.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes the Board to discipline licensees who are “intemperate in the use of alcohol or drugs” in a way that “could endanger patients” or who through “a pattern of practice” show “inability to practice nursing” because of “impairment caused by . . . use of alcohol, drugs, chemicals, or any other substance,” 59 O.S.Supp.2015 § 567.8(B)(4), (5). The Act also authorizes discipline if licensees “default[] from the Peer Assistance Program.” *Id.* § 567.8(B)(11).

Nurses who have chemical and substance abuse problems may make decisions that compromise nursing care and threaten the life, health, and safety of patients. The action seeks to advance the statutory policy against chemical and substance impairment while practicing nursing by allowing the licensee to enter treatment and continue practicing nursing while, upon default from treatment, imposing license revocation. It is reasonable to believe that these consequences are necessary to protect the public from compromised nursing care.

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 patient life, health, and safety from compromised nursing care.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is stylized with a large, looped initial "E" and a long horizontal stroke extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA