



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-53A

Billy Stout, M.D., Board Secretary
State Board of Medical Licensure and
Supervision
101 NE 51st Street
Oklahoma City, Oklahoma 73105

January 28, 2016

Dear Board Secretary Stout:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take with regard to an application for reinstatement by former physician assistant licensee 1298. The Board initially denied the application for reinstatement because of confusion between licensee's roles as a physician assistant and as a licensed chiropractor, but the prior Attorney General Opinion No. 2015-180A disapproved this action because it was inconsistent with statutory policies regarding the status of chiropractors.

Now, the Board has proposed—pursuant to a consent agreement—to grant the application for reinstatement while imposing a five-year probation with several practice conditions. Those conditions include attending courses in ethics and prescriptions; not prescribing scheduled drugs for the first year of probation; undergoing a psychiatric assessment; not ingesting any controlled dangerous substances without a valid prescription; identifying himself as a physician assistant at all times when acting as one; not treating a patient on the same day both as a chiropractor and physician assistant; and not using the same facility as an office location for both licensee's chiropractic and physician assistant practices.

Additional requirements including Board Secretary oversight, guidance from a supervising physician, and inspection of the licensee's person and records by the Board upon request will be used to enforce the probation.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480–519, makes it a felony to practice medicine and surgery without a license, 59 O.S.2011, § 491(A)(1)–(2). The practice of medicine and surgery includes the use of phrases such as “physician,” “doctor,” or “M.D.” See 59 O.S.2011, § 492(A), (C)(5). However, the practice of medicine does not include the use of a designation such as “doctor” when that title “additionally contains the description of another branch of the healing arts for which one holds a valid license” in Oklahoma. *Id.* § 492(C)(5); see also *id.* § 492(D)(4), (9), (E)(2), (F). Oklahoma

law recognizes licensed chiropractor as a kind of “doctor,” however. *See* 59 O.S.2011, §§ 161.2, 161.3(6), 161.15.

Yet physician assistants are fundamentally limited in their practice. Oklahoma law specifically states that physicians cannot “practice medicine or prescribe drugs and medical supplies in this state except when such actions are performed under the supervision and at the direction of a physician approved by the State Board of Medical Licensure and Supervision.” *Id.* § 519.11(C). Thus, the statutes show that while licensee may be able to practice as a chiropractor and as a physician assistant, the Board has reasonable concerns about confusion and ensuring that licensee observes the limitations on practice imposed by law on physician assistants. The conditions imposed in the order reasonably ensure licensee reduces confusion and separates chiropractic and physician assistant practice.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision has adequate support for the conclusion that this action advances the State of Oklahoma’s policy to protect public health and ensure patient welfare.

A handwritten signature in black ink, appearing to read "Scott Pruitt", written in a cursive style.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA