



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2016-9A

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

January 7, 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 medical gas distributor licensee 2-D-667. The proposed action is to place the licensee on probation for five years; impose fines totaling \$13,500; and restrict licensee from providing certain medical gas services at its Tulsa location until compliance with all state and federal requirements, including a Board inspection, is complete. Licensee had failed to follow recordkeeping and quality control procedures, and licensee failed to present records showing registration with federal regulators.

The Oklahoma Pharmacy Act seeks to “promote, preserve and protect the public health, safety and welfare” within the State. 59 O.S.2011, § 353(B). To achieve that objective, the Act authorizes the Board to regulate medical gas distributors. 59 O.S.Supp.2015, §§ 353.7(5), 353.18(B)(1). The Board’s administrative rules require that medical gas distributors maintain compliance with federal law, OAC 535:20-9-4(g)(1)(A); maintain and establish policies and procedures for inventory management, OAC 535:20-9-4(i)(1); adhere to a standard of care when filling prescriptions and drug orders to avoid misfill, OAC 535:25-9-9; and employ qualified personnel, OAC 535:20-9-4(f). The action seeks to enforce these rules that ensure medical gas distributors engage in business in a safe manner. The Board may reasonably believe that probation, fines, and requirements for compliance before continuing operations will adequately prevent future violations.

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 that reads "Scott Pruitt".

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA