



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-462A

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

August 5, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Board of Nursing intends to take pursuant to a consent agreement in Board case 3.010.17. The proposed action is to revoke the license for five years. Prior to reinstatement, the licensee must be evaluated for fitness to practice and must pay a fine of \$500. If the license is reinstated, the licensee will be placed on probation for 12 months, during which time the licensee may only work at a hospital and under supervision. Upon reinstatement, the licensee must provide the Board with quarterly self-assessment reports, and if reports are not provided the license will be suspended for three months, and an additional fine will be assessed. The licensee, while working at a long-term care facility, was found standing next to a resident's bed with his pants at his feet. A female resident was lying on her side facing the licensee. A subsequent investigation confirmed sexual exposure. The female resident had a medical history which included both stroke and inability to speak. The licensee was terminated from the long-term care center.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes the Board to impose discipline when a nurse “[f]ails to adequately care for patients or to conform to the minimum standards of acceptable nursing” in a way that “unnecessarily exposes a patient or other person to risk of harm,” is “guilty of unprofessional conduct,” “[i]s guilty of any act that jeopardizes a patient’s life, health or safety,” or “[e]ngages in sexual misconduct, as defined in Board rules, with a current or former patient,” 59 O.S.Supp.2015, § 567.8(B)(3), (7), (8), (13). Unprofessional conduct includes “engaging in conduct with a patient . . . that is sexual or may reasonably be interpreted as sexual . . . or engaging in sexual exploitation of a patient.” OAC 485:10-11-1(b)(3)(Q). Conduct which jeopardizes a patient's life, health or safety includes any “[f]ailure to utilize appropriate judgment in administering safe nursing practice.” OAC 485:10-11-1(b)(4)(D). The action seeks to enforce requirements aimed at protecting vulnerable patients from sexual exploitation. The Board may reasonably believe that its action will deter future violations.

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 the public health, safety, and welfare by ensuring nurses do not exploit patients.

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a long horizontal line extending to the right from the end of the signature.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA