



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-8A

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 pharmacy licensee 2-5915. The proposed action is to place the licensee on probation for two years and impose fines totaling \$4,000. The licensee had compounded a commercially available product and used the incorrect formula when compounding the drug, which resulted in the compounding of a drug not approved for use on humans.

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 practice of pharmacy includes compounding drugs. 59 O.S.Supp.2015, § 353.1(37)(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). The rules require that pharmacists engaged in compounding “ensure preparations are of acceptable strength, quality, and purity” and that they ensure processes will result in intended drugs. OAC 535:15-10-3(c)(4)–(5). The Board’s rules also prohibit pharmacists from compounding commercially available drugs without specific medical needs. OAC 535:15-10-8(h)(1)–(2).

The action seeks to enforce rules that ensure pharmacies maintain quality standards when producing drugs and that they do not dispense commercially available products regulated by the United States Food and Drug Administration. The Board may reasonably believe that fines and probation will 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, appearing to read "E. Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA