



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-322A

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

May 31, 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 pursuant to a consent agreement with respect to former physical therapist licensee 2782. The proposed action is to reinstate the physical therapist license with restrictions lasting five years or until terminated by the Board. The restrictions include the requirements to only ingest medication based on legitimate medical need, to submit to random urine testing, to provide various kinds of health information to the Board on request, and to participate in a peer-based substance abuse monitoring program. The licensee had been convicted in California with a misdemeanor for driving under the influence of alcohol and then was disciplined by California's physical therapy regulator for conviction.

The Physical Therapy Practice act, 59 O.S.2011 & Supp.2015, §§ 887.1–887.18, authorizes the Board to deny licenses to applicants or discipline licensees who have used “intoxicating liquors to an extent which affects the professional competency of the applicant or licensee,” who have “[b]een convicted of . . . a misdemeanor crime involving moral turpitude,” who have “[b]een guilty of conduct unbecoming a person licensed as a physical therapist” or who have “[b]een guilty of any act in conflict with the ethics of the profession of physical therapy,” 59 O.S.Supp.2015, § 887.13(A)(4), (5), (9), (10). The Board's rules clarify the “conduct unbecoming” physical therapists by setting out acts constituting unprofessional conduct. Unprofessional conduct includes “[h]abitual intemperance or addicted use of any drug, chemical or substance that could result in behavior that interferes with the practice of physical therapy and responsibilities of the licensee.” OAC 435:20-5-8(b)(13).

Here, the licensee's criminal history and prior professional discipline reveal a possibility of compromised care arising from alcohol abuse. The Board may reasonably believe that agreed restrictions reached with the licensee are necessary to protect patient safety and public health while allowing the licensee to practice physical therapy in Oklahoma.

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 upholding minimum standards of professionalism in the practice of physical therapy.

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

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA