



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-34A

Lyle Kelsey, Executive Director
State Board of Medical Licensure and
Supervision
101 NE 51st Street
Oklahoma City, Oklahoma 73105

October 13, 2015

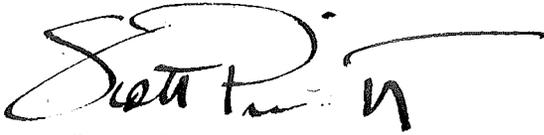
Dear Executive Director Kelsey:

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 against licensee 22856. The proposed action is to suspend the licensee for twenty days; impose a fine of \$50,000; restrict the licensee's ability to supervise other healthcare professionals to an orthopedic practice for five years; restrict the licensee's ability to dispense controlled substances for five years; and require the licensee to engage in continuing education in prescribing medications. The licensee took on the role of medical director of a business other than the licensee's primary orthopedic practice, allowed nurses and other personnel to dispense medication under the licensee's authority, and then never conducted any oversight such as reviewing charts, seeing patients face-to-face, or otherwise. The Board found him guilty of or in violation of several related provisions of state and federal law.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2014, §§ 480–519, prohibits a range of unprofessional conduct by doctors, including failing to keep medical records regarding controlled substances; prescribing drugs without “sufficient examination and the establishment of a valid physician-patient relationship;” and prescribing controlled substances “in excess of the amount considered good medical practice” or “without medical need” based on medical standards. 59 O.S.2011, § 509(10), (12), (16). The Board's administrative rules contain similar proscriptions against, for example, “[i]ndiscriminate or excessive prescribing, dispensing or administering” of controlled substances. OAC 435:10-7-4(1); *see also*, *e.g.*, OAC 435:10-7-4(2), (6), (7).

Oklahoma law, including statutes enacted by the Legislature, thus displays a policy of ensuring that licensed medical doctors prescribe, dispense, and administer controlled substances only with clinical justification and only then with adequate documentation and record-keeping. The action seeks to enforce that requirement—without prohibiting a professional from practice altogether—through temporary penalties, additional education, and license restrictions that prevent the licensee from unilaterally or through participation in other businesses improperly dispensing controlled substances.

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 the public welfare and adequately regulate controlled substances.

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a large, stylized flourish above the name.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA