



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-298A

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

May 16, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency actions to be taken under the auspices of the Oklahoma Board of Nursing pursuant to a consent agreement in Board case 6.025.16. The licensee displayed impaired behavior at work and admitted to excessive alcohol consumption, later entered the Board's substance abuse monitoring program after admitting to abuse of alcohol and drugs, and then defaulted from the program.

The proposed action is to accept the voluntary surrender of the licensed practical nurse's license for two years and to require, prior to reinstatement, compliance with guidelines on reinstatement after substance abuse, which include pursuing various forms of substance abuse treatment. The action also requires that, upon reinstatement, the licensee enter substance abuse monitoring and that, if the licensee defaults from substance abuse monitoring, a \$1500 fine and five-year revocation would be imposed.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes agreed disciplinary orders accepting the voluntary surrender of a license, *see* 59 O.S.Supp.2015, § 567.4(F)(3)(d). The Act elsewhere authorizes the Board to impose discipline on nurses who “[f]ail[] 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,” those who are “intemperate in the use of alcohol or drugs, which use the Board determines endangers or could endanger patients,” who commit “any act that jeopardizes a patient’s life, health or safety,” or who default from the Board’s substance abuse monitoring program. *See id.* § 567.8(B)(3), (4), (8), (11).

The action in this case seeks to ensure that the licensee’s nursing practice reaches a minimum standard that preserves patient safety. It could reasonably be believed that surrender of the license will prevent future patient harm while guidelines compliance will ensure the licensee can provide adequate care upon reinstatement. Further, requiring additional substance abuse monitoring with consequences for default are reasonably tied to preventing patient harm.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Board of Nursing has adequate support for the conclusion that these actions advance the State of Oklahoma's policy that nurses observe minimum standards of care.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is written in a cursive, flowing style with a large initial "E".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA