



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-11A

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 23-5328. The proposed action is to suspend the license for five years and impose fines totaling \$33,000. The action also lifts the license suspension and imposes probation for five years with the condition that violations of rules regarding pharmacists managing the pharmacy practice in the location will result in the suspension being put into effect. The licensee must also provide a copy of the discipline to any pharmacist-in-charge employed by the licensee during the probationary period. The pharmacy had allowed several employees who are not licensed pharmacists to work and perform pharmacist activities without pharmacist supervision.

The Oklahoma Pharmacy Act, 59 O.S.2011 & Supp.2015, §§ 353–355.2, requires that anybody seeking to sell “dangerous drugs, medicines, chemicals or poisons” outside certain narrow exceptions obtain a license from the Board, 59 O.S.Supp.2015, § 353.18(A)(1). Licensed facilities may use “[s]upportive personnel . . . if used in compliance with rules established by” the Board. 59 O.S.2011, § 353.29(A). Under those rules, licensees must ensure that “[a]ll tasks performed by pharmacy technicians . . . be accomplished under the immediate and direct supervision of a pharmacist who is currently licensed by the Board.” OAC 535:15-13-5(a). The action seeks to enforce these supervision requirements, which ensure that only pharmacists practice pharmacy. *See* 59 O.S.2011, §§ 353.13, 353.17A.

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.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA