



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-712A

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

November 21, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action to be taken by the Oklahoma Board of Nursing pursuant to a consent agreement in Board case 3.377.16. The proposed action is to maintain a temporary suspension on the license until the licensee is accepted into the Board's Peer Assistance Program, a drug and alcohol monitoring program. If the licensee is not accepted or defaults from the program, the license will be revoked for two years, a \$500 fine will be imposed, and the licensee will be required to meet the Board's guidelines for reinstatement. In the event of reinstatement of the license, the licensee would re-refer to the Board's Peer Assistance Program, a drug and alcohol monitoring program. In May 2016 the licensee entered an agreed order with the Board after pleading guilty to driving under the influence of alcohol. Body fluid testing is required by the order. In October 2016 the licensee had a third "dilute" drug test result, which typically indicates the ingestion of excessive fluid, such as water, prior to the test. The licensee did not provide any medical cause for the third "dilute" result which was therefore deemed a positive result. The license is thereby temporarily suspended pursuant to the agreed order.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes the Board to enforce the provisions of its orders, 59 O.S.Supp.2016, § 567.8(B)(9). The action enforces requirements that nurses who have entered agreed orders with the Board abide by the agreed terms. Given that the licensee has made no attempt to explain a third "dilute" drug test result, the Board may reasonably believe that maintaining a temporary suspension pending the licensee's acceptance into the Peer Assistance Program is necessary to deter future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma Board of Nursing 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 blue ink, appearing to read "E. Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA