



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-26A

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

January 7, 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 in Board case 14-01-4902. Licensee, a psychiatric physician, failed to maintain records accurately reflecting patient evaluations or supporting diagnosis and prescribed medication for numerous patients even though licensee was prescribing controlled dangerous substances.

The proposed action is to impose a fine of \$9,000; require completion of two continuing education courses, one in recordkeeping for psychiatrists and another in psychiatric care of patients also receiving pain management care; and place terms of probation on licensee for one year. The probation terms include notifying potential employers about the discipline; making licensee's records available to the Board; maintaining currentness of all payments to the Board; and obtaining a practice monitor to review patient records and provide advice on improvement of licensee's psychiatric care.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480–518.1, authorizes the Board to impose discipline for the “[f]ailure to maintain an office record for each patient which accurately reflects the evaluation, treatment, and medical necessity of treatment” as well as failure to “produce[] and maintain[]” “[a]dequate medical records to support diagnosis, procedure, treatment or prescribed medications,” 59 O.S.2011, § 509(18), (20). The Board’s administrative rules clarify that “[i]ndiscriminate or excessive prescribing, dispensing or administering of” controlled substances violates the law. OAC 435:10-7-4(1). The action seeks to advance the medical recordkeeping requirement, particularly in light of the risks posed by indiscriminate prescription of controlled dangerous substances. The Board may reasonably believe that a year of probation, fines, and continuing education will prevent and deter future violations.

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 public health and ensure patient welfare.

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 stroke at the end.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA