



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-449A

Billy Stout, Board Secretary
State Board of Medical Licensure and
Supervision
101 N.E. 51st Street
Oklahoma City, Oklahoma 73105

August 1, 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 with respect to an application for licensure by prospective licensee 32501. The proposed action is to enter an agreement with the applicant whereby restrictions will be imposed on the applicant's professional practice in conjunction with granting the license. The restrictions include: random hair follicle and body fluid testing; ingestion of only medications authorized by a treating physician who has been made aware of the agreement; an affirmative duty not to ingest prohibited substances including alcohol; Board access to applicant's practice and treatment-related records; notification of any criminal charges involving substance abuse, or any relapse, including inpatient rehabilitation; notification to potential employers, or other states, of the agreement; appearance before the Board upon request; entrance into a contract with the Oklahoma Health Professional Program ("OHPP"), a substance abuse assistance program; continued adherence to all terms of a North Carolina alcohol monitoring program; and treatment by a primary care physician for addiction. The applicant experienced problems connected to alcohol abuse in North Carolina and subsequently entered a substance abuse assistance program. The purpose of these conditions is to mirror and continue the goals of the North Carolina program.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480–518.1, provides "[n]o person shall be licensed to practice medicine . . . in [the] state except upon a finding by the Board that such person . . . has produced satisfactory evidence to the Board of the ability of the applicant to practice medicine and surgery with reasonable skill and safety," 59 O.S.2011, § 492.1(B). The Board may issue "conditional, restricted, or otherwise circumscribed licenses, or . . . licenses under terms of agreement . . . for the public health, safety, and welfare." 59 O.S.2011, § 493.3(D). An agreement entered with an applicant will be deemed "continuing in nature until set aside or otherwise terminated by the Board." OAC 435:10-4-11(b)(5). The restrictions on the applicant's license described above reasonably seek to ensure that the licensee does not provide compromised care because of alcohol or other substance abuse problems.

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 ensure patient care is not compromised by substance abuse.

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 extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA