



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-516A

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

August 10, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Board of Nursing (“Board”) intends to take in Board case 3.082.17. The proposed action is to issue an emergency order temporarily suspending the license pending a hearing on the merits at the Board’s September 2016 meeting.

The licensee was terminated from a hospital in September 2015 after failing to properly document the administration of medications to patients, including one instance in which the licensee admitted to withdrawing a Schedule II controlled dangerous substance (“CDS”), Fentanyl, from a discontinued intravenous infusion bag for a patient, and then claimed to have administered the Fentanyl to the patient without scanning or documenting administration of the drug. The licensee was terminated from another medical center in January 2016 for suspected diversion of medications, after the licensee removed multiple medications from the hospital’s automated medication dispensing system, including the CDS medication Dilaudid, and then cancelled the transactions.

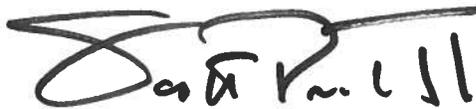
After the January 2016 termination, the licensee claimed no personal issues with chemicals and declined to enter the Board’s Peer Assistance Program, a drug and alcohol assistance program. The licensee then moved to Colorado without notifying the Board of the change of address. In July 2016, the Colorado State Board of Nursing summarily suspended the licensee’s registered nurse license after the licensee admitted removing Dilaudid and Fentanyl vials, extracting the Dilaudid and Fentanyl from the vials, and then injecting the vials with saline solution and gluing the caps back to make it appear that the vials had not been opened. The licensee also accessed Dilaudid and Fentanyl at the hospital more than 40 times, and then cancelled the transactions. The licensee removed medications for patients not under the licensee’s care and removed Dilaudid for patients who did not have prescriptions for Dilaudid.

The Board held an emergency hearing August 10, 2016 to consider the temporary suspension of the license in Oklahoma. During a phone conversation on August 8, 2016, the licensee communicated to Board staff that the licensee would not attend the emergency hearing.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes the Board to impose discipline when a nurse “[f]ails to adequately care for patients or to conform to the minimum standards of acceptable nursing” in a way that “exposes a patient or other person to risk of harm,” is “guilty of unprofessional conduct,” “[i]s guilty of any act that jeopardizes a patient’s life, health or safety,” has violated state or federal law related to nursing, or “[h]as had disciplinary actions taken against the individual's [license] . . . in this or any state, territory or country,” 59 O.S.Supp.2015, § 567.8(B)(3), (7), (8), (9), (10). Unprofessional conduct includes “falsely manipulating drug supplies,” appropriating medications without authority, failing to maintain proper custody and control of CDS medications, or “[d]iversion or attempts to divert drugs or controlled substances.” OAC 485:10-11-1(b)(3)(C), (D), (T), (U). Conduct which jeopardizes a patient's life, health or safety includes “[u]nauthorized alterations of medications” and “[f]ailure to utilize appropriate judgment in administering safe nursing practice.” OAC 485:10-11-1(b)(4)(C), (D). “Notice of change of address must be submitted in writing by each licensee within 30 days of the change.” OAC 485:10-7-9(c).

Nurses who fail to account for CDS medications, and who divert and intentionally alter CDS medications, put patients’ health at risk. The action enforces requirements that nurses provide adequate care for patients, and properly account for CDS medications. Given the seriousness of the allegations, including intentionally tampering with CDS medications which may be administered to others, the Board may reasonably believe that issuing an emergency order temporarily suspending the license pending a hearing on the merits is necessary to protect patients.

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.



E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA