



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-42A

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

January 27, 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 regard to an application for licensure by prospective licensee 30428. The licensee has inactive licenses in Pennsylvania and Massachusetts, was internally disciplined at a hospital in Pennsylvania, and has a history of alcohol-related crimes from 2009 to 2011.

The proposed action is to impose restrictions on the professional practice of the licensee in conjunction with granting the license. The restrictions include submission to periodic body fluid testing, ingestion of only medications authorized by a treating physician who has been made aware of the discipline, an affirmative duty not to ingest prohibited substances including alcohol, submission of practice and treatment-related records on request, notification to the Board of any criminal charges or relapse involving alcohol misuse, practice in specific approved residency program, and notification to potential employers or other states of these restrictions. The licensee must also complete a program of monitoring with Oklahoma Health Professionals Program (OHPP), undergo psychiatric treatment, and complete a course in serving as a distressed physician. Finally, the licensee must have an evaluation of any wrist problems that may prevent effective practice.

The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480–519, authorizes the Board to require “satisfactory evidence of professional competence and good moral character” when evaluating whether to grant a license to practice medicine, 59 O.S.2011, § 495h. The Board’s administrative rules clarify that “habitual or excessive use of any drug which impairs the ability to practice medicine” as well as “[b]eing physically or mentally unable to practice medicine and surgery with reasonable skill and safety” qualify as unprofessional conduct. OAC 435:10-7-4(3), (17). The conditions on reinstatement described above reasonably seek to ensure that the licensee does not compromise care because of alcohol abuse, psychiatric problems, or physical 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 protect public health and ensure patient welfare.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA