



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-493A

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

August 5, 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 intends to take pursuant to a consent agreement in Board case 3.059.17. The proposed action is to require the licensee to undergo an evaluation for substance use and to submit to body fluid testing twice per month. Any violations connected to the body fluid tests will result in the immediate, temporary suspension of the license. The licensee must also complete courses in nursing law, care and custody of controlled dangerous substance (“CDS”) medications, and roles and responsibilities of nurses in long-term care settings. The licensee will be fined \$3,500 and severely reprimanded. Failure to comply with the primary provisions of the order will result in a three month suspension of the license and additional fines. In 2014, the licensee, while working as a charge nurse in a long-term care center, failed to notify a resident’s physician and family when the resident exhibited fitful behavior including rolling from bed onto the floor, thrashing about, and hitting the wall with her arms, legs and head. The licensee also failed to check the resident’s neurological condition or initiate an incident report. In addition, in 2015, the licensee removed CDS medications on behalf of at least seven patients but did not document the administration or waste of the medications.

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 “unnecessarily exposes a patient or other person to risk of harm,” is “guilty of unprofessional conduct,” is “guilty of any act that jeopardizes a patient’s life, health or safety,” or violates regulations or state or federal law related to the practice of nursing, 59 O.S.Supp.2015, § 567.8(B)(3), (7), (8), (9). Unprofessional conduct includes inaccurate recording of patient records and failing to maintain custody of CDS medications. OAC 485:10-11-1(b)(3)(A), (T). Conduct which jeopardizes a patient’s life, health, and safety includes a nurse’s “[f]ailure to utilize appropriate judgment in administering safe nursing practice.” OAC 485:10-11-1(b)(4)(D). The action seeks to enforce requirements that that nurses provide adequate nursing care and properly maintain CDS medications. The Board may reasonably believe that the disciplinary action 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 by ensuring nurses provide adequate care and properly maintain CDS medications.

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a long horizontal line extending to the right from the end of the signature.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA