



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-305A

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

May 19, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action to be taken under the auspices of the Oklahoma Board of Nursing pursuant to a consent agreement in Board case 6.016.16. The licensee used a position involving the review of Medicare cases for fraud to obtain at least 30 doses of a Schedule II controlled dangerous substance. The proposed action is to accept the voluntary surrender of the license. The action also requires, prior to reinstatement, that the licensee complete a course in nursing law, obtain a substance abuse evaluation, and pay a \$500 fine.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes the Executive Director of the Board to enter agreed disciplinary orders accepting the voluntary surrender of a license, *see* 59 O.S.Supp.2015, § 567.4(F)(3)(d). The Act elsewhere authorizes the Board to impose discipline on nurses who are “intemperate in the use of alcohol or drugs, which use the Board determines endangers or could endanger patients” or who are “guilty of unprofessional conduct as defined in the rules of the Board.” *See id.* § 567.8(B)(4), (7). The Board’s rules clarify that “making [controlled substances] available without authority to self,” “fail[ing] to maintain proper custody and control of controlled dangerous substances,” and “diversion or attempts to divert drugs or controlled substances” amount to unprofessional conduct. OAC 485:10-11-1(b)(P), (T), (U). Based on the licensee’s flagrant diversion of drugs, it is reasonable to believe that acceptance of the licensee’s decision to voluntarily surrender the license will prevent 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 these actions advance the State of Oklahoma’s policy that nurses observe minimum standards of care and professionalism.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA