



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-720A

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

October 17, 2017

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Board of Nursing intends to take pursuant to consent agreement in case 6.017.18. The licensee's registered nurse license had been suspended for defaulting from the Peer Assistance Program (PAP). The Board proposes that the license remain suspended and that the licensee be re-referred to PAP and required to submit an application for reinstatement within 60 days of PAP acceptance. If the licensee is not accepted or terminates/defaults from PAP, or the licensee fails to timely submit an application for reinstatement, the license will be revoked for five years. If the license is revoked under these circumstances, licensee will be required to pay a \$3,000 administrative penalty and meet Board guidelines for reinstatement.

On October 25, 2016 the licensee removed Dilaudid 2 mg/ml, a Schedule II Controlled Dangerous Substance medication, from a hospital's medication dispensing machine, but failed to document the administration or waste of the medication. On October 28, 2016, the licensee removed the same medication and documented its administration to a patient, but the licensee was neither on duty at the time nor assigned to care for the patient. The licensee admitted to diverting Dilaudid for personal use and resigned from the hospital. The licensee admitted to Board staff to using the diverted Dilaudid while on duty at the hospital and at home. The licensee admitted to using Dilaudid waste from the hospital 2-3 times per week by injection for 4 weeks prior to termination.

On November 15, 2016, the licensee voluntarily entered PAP, but defaulted on or about February 15, 2017 for failure to comply with the terms and conditions of the PAP contract. The licensee admits to having a substance abuse disorder and has requested a re-referral to PAP.

The Oklahoma Nursing Practice Act authorizes the Board to impose discipline when a nurse "[i]s intemperate in the use of alcohol or drugs [in a manner which] endangers or could endanger patients," has "[v]iolated...a state or federal narcotics or controlled dangerous substance law," or "[h]as defaulted from the [PAP] for any reason[.]" 59 O.S.Supp.2016, § 567.8(B)(4), (9), (11). Such discipline may include "[d]eny[ing], revok[ing] or suspend[ing]" a license, "assess[ing] administrative penalties" and "otherwise disciplin[ing] licensees." *Id.* § 567.8(A)(1)-(3). A licensee may also be directed to apply to PAP with conditions placed upon the licensee's practice

during the licensee's participation in PAP. *Id.* § 567.17(K). The Board may reasonably believe that the licensee's participation in the PAP is necessary to deter future violations and to protect patients by ensuring that nurses are working substance free.

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's policy to protect public health, safety, and welfare by ensuring nurses provide care uncompromised by substance abuse and meet minimal standards of professional conduct.



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