



OFFICE OF THE
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION
2021-52A

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

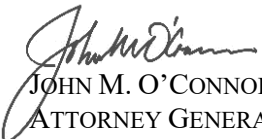
December 13, 2021


Dear Executive Director Barnhouse:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Board of Nursing intends to take in case 3.2020110025.22. According to a Board complaint, while working in a hospital in December 2019, the Respondent removed Schedule II CDS medication and failed to document the administration and/or waste of the medication. The Respondent subsequently admitted to having a substance-abuse problem and stealing medication for her own use. The Board proposes to temporarily suspend the license pending acceptance to the Board's Peer Assistance Program ("PAP"). The license will remain temporarily suspended pending acceptance to PAP. If the Respondent is not accepted to participate in the PAP, or the PAP is not completed, the Respondent's license will be revoked for two years. If the license is revoked, the Respondent must meet the Board's guidelines for reinstatement and pay an administrative penalty of \$3,000 and costs of \$831.36. Upon reinstatement, the Respondent will be referred to the PAP.

The Oklahoma Nursing Practice Act 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," "[i]s guilty of unprofessional conduct," "[i]s guilty of any act that jeopardizes a patient's life, health or safety," or "[v]iolate[s] a rule promulgated by the Board[.] 59 O.S.2021, § 567.8(B)(3), (7-9). Unprofessional conduct includes "falsely manipulating . . . narcotics[.]" "appropriating[.] without authority[.] medications[.]" "conduct detrimental to the public interest[.]" "failure to maintain proper custody and control of controlled dangerous substances[.]" "diversion or attempts to divert drugs or controlled substances[.] or "[f]ailure to utilize appropriate judgment in administering safe nursing practice." OAC 485:10-11-1(b)(3)(C), (D), (H), (T), (U) 4(D). The Board may reasonably believe that the proposed 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's policy to protect public health, safety, and welfare by ensuring nurses meet minimum standards of professional conduct.


JOHN M. O'CONNOR
ATTORNEY GENERAL OF OKLAHOMA


JULIE PITTMAN
DEPUTY GENERAL COUNSEL