



JOHN M. O'CONNOR
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION
2022-16A

Jenny Barnhouse, Executive Director
Oklahoma Board of Nursing
P.O. Box 52926
Oklahoma City, Oklahoma 73152

May 17, 2022

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 3.2020110051.22.

The Oklahoma Nursing Practice Act authorizes the Board to discipline a nurse guilty of criminal conduct, unprofessional conduct¹ or any violation of state or federal law relating to the practice of nursing. 59 O.S.2021, § 567.8(B)(2), (7), (9). A nurse may also be subject to discipline for failing "to adequately care for a patient 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[.]" *Id.* § 567.8(B)(3).

The Respondent holds an RN license. In March 2021, Respondent entered into a Stipulated Order ("SO") after admitting to removal of Schedule II CDS medication and failure to document the administration and/or waste of the medication on multiple occasions in 2020, while working in a hospital. Under the SO, Respondent's license remained in effect with certain conditions including a severe reprimand, an evaluation, body fluid testing twice monthly until Board review of the evaluation, completion of educational courses, and payment of an administrative penalty. In July 2021, the Board issued a supplemental order accepting Respondent's evaluation and requiring continued body fluid testing. In November 2021, Respondent's license was temporarily suspended after a body fluid test was positive for alcohol and opiates. An agreed supplemental order was entered requiring continued body fluid testing for six months and a \$500 administrative penalty.

The Board now proposes to refer the Respondent to the Board's Peer Assistance Program ("PAP"). The license will remain temporarily suspended pending acceptance to PAP. If Respondent is not accepted to PAP, or defaults from the PAP, the license will be revoked for two years. If the license is revoked, the Respondent must meet Board guidelines for reinstatement and pay an administrative penalty of \$500. Upon reinstatement after revocation, the Respondent will again be referred to PAP. The Board may reasonably believe the proposed action is necessary to deter future violations.

¹ By Board rule, unprofessional conduct includes "conduct detrimental to the public interest" OAC 485:10-11-1.(a)(b)(3)(H).

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.



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