



JOHN M. O'CONNOR
ATTORNEY GENERAL

**ATTORNEY GENERAL OPINION
2022-40A**

Marty Hendrick, Executive Director
Oklahoma State Board of Pharmacy
2920 N. Lincoln Blvd., Suite A
Oklahoma City, OK 73105

October 20, 2022

Re: New Spring Pharmacy, L.L.C., Case No. 1640

Dear Executive Director Hendrick:

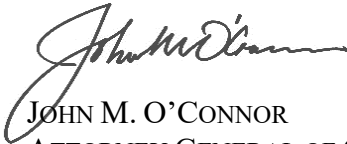
This office has received your request for a written Attorney General Opinion regarding action that the State Board of Pharmacy intends to take in Case No. 1640.

The Oklahoma Pharmacy Act authorizes the Board to regulate the practice of pharmacy. 59 O.S.2021, § 353.7. Specifically, “[t]he State Board of Pharmacy may . . . revoke permanently or suspend any certificate, license or permit issued pursuant to the Oklahoma Pharmacy Act or reprimand or place on probation any holder of a certificate, license, or permit who . . . violates any provision of the Uniform Controlled Dangerous Substances Act” or “[c]onducts himself or herself in a manner likely to lower public esteem for the profession of pharmacy.” *Id.* § 353.26(A)(1)(b), (e). The Uniform Controlled Dangerous Substances Act states that “[i]t shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance[.]” 63 O.S.2021, § 2-402(A)(1). Further, it is unlawful to (1) fail to have a licensed pharmacist “present and on duty at all business hours”; (2) “subvert the authority of the pharmacist-in-charge . . . by impeding the management of the prescription department”; and (3) permit the practice of pharmacy by anyone other than a licensed pharmacist. *See* 59 O.S.2021, § 353.18(A)(2), *id.* § 353.24(B)(5–6).

Respondent is a licensed pharmacy located in Kiefer. According to a Board complaint, from November 2021 through April 2022, Respondent violated Board rules by (1) failing to maintain control and distribution of drugs by allowing access to the pharmacy without a licensed pharmacist present; (2) failing to protect the confidentiality of patrons by allowing non-employees to enter the pharmacy; (3) failing to timely submit updated licensure information to the Board; (4) performing tasks without the presence of a licensed pharmacist; (5) subverting the authority of the pharmacist-in-charge by impeding his or her management of the prescription department to maintain compliance with state and federal law; (6) practicing pharmacy without a license; and (7) violating

registrant conduct. ¹ See 59 O.S.2021, § 353.18(A)(2)(d); 59 O.S.2021, § 353.24(B) (5–6); OAC 535:15-3-13(a), OAC 535:25-7-4; OAC 535:15-3-4.2; OAC 535:25-9-8. The Board proposes to revoke Respondent’s license and require Respondent to immediately cease filling prescriptions for drugs or substances and to fine the Respondent in the amount of \$21,000, due immediately. Respondent’s failure to abide by the terms of the Board’s Order may result in further disciplinary action. The Board may reasonably believe the proposed action is necessary to deter future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Pharmacy has adequate support for the conclusion that this action advances the State’s policy to protect public health, safety, and welfare.



JOHN M. O’CONNOR
ATTORNEY GENERAL OF OKLAHOMA



THOMAS R. SCHNEIDER
DEPUTY GENERAL COUNSEL

¹ “Failure to establish and maintain effective controls to prevent prescription errors” is a violation of registrant conduct. See OAC 535:25-9-8(1).