



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-21A

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

January 24, 2017

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action that the Oklahoma Board of Nursing intends to take under a consent agreement in Board case 6.003.17. The proposed action is to accept the voluntary surrender of the nurse's license. Reinstatement is conditioned on payment of a \$1,000 fine; completion of an education course on care, custody and control of controlled dangerous substance medication; and submitting to an evaluation reviewed by the Board. The nursing home records show six times the licensee failed to document the administration or waste of multiple doses of Norco from two residents' medication supplies. Both residents deny receiving their medication on the six occasions. The licensee was terminated from the nursing home.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes agreed disciplinary orders for the voluntary surrender of a license, *see* 59 O.S.Supp.2016, § 567.4(F)(3)(d). The Act authorizes the Board to impose discipline when a nurse "fails to care for patients adequately or to conform to the minimum standards of acceptable nursing;" "unnecessarily exposes a patient or other person to risk of harm;" is found "guilty of unprofessional conduct as defined in the rules of the Board;" found "guilty of an act that jeopardizes a patient's life, health or safety;" or violates "an order of the Board." 59 O.S.Supp.2016, § 567.8(B)(3), (7), (8), (9). Unprofessional conduct includes "falsely manipulating patient supplies or records;" "appropriating medication without authority;" "diversion" or "failure to maintain proper custody and control of controlled dangerous substances." OAC 485:10-11-1(b)(3)(C),(D), (H), (T), (U). "Conduct which jeopardizes a patient's life, health, or safety" includes "failure to utilize the appropriate judgment in administering safe nursing practice," OAC 485:10-11-1(b)(4)(D). This action seeks to enforce requirements aimed at ensuring nursing care is not compromised by the influences of substance abuse and that controlled dangerous substances are carefully maintained and accounted. The Board may reasonably believe that accepting the voluntary surrender of the license, with conditional reinstatement, will embolden future compliance and protect patients from compromised nursing care.

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 of Oklahoma's policy to protect the public health, safety, and welfare.

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a long horizontal stroke extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA