ATTORNEY GENERAL OPINION
2017-25A

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 to be taken by the Oklahoma Board of Nursing under a consent agreement in Board case 6.024.17. The proposed action is to temporarily suspend the licensee's registered nursing license pending acceptance into the Board’s Peer Assistance Program, a drug and alcohol monitoring program. The licensee pled guilty to three counts: a felony charge of Possession of Controlled Dangerous Substance, Methamphetamine; and two misdemeanors, Driving a Motor Vehicle While Under the Influence of Drugs and Unlawful Possession of Drug Paraphernalia. The licensee received a three-year deferred sentence for Count 1, a concurrent one-year deferred sentence for Count 2, and a fine for Count 3. In addition, the district attorney placed the licensee under supervised probation. The licensee admitted to a substance abuse disorder and requested the referral to the Board’s peer-based substance abuse monitoring program. If the licensee is not accepted or defaults from the Peer Assistance Program, the agreed order calls for the Board to revoke the registered nurse license for two years. In addition, the Board may suspend the license for three months and impose a noncompliance penalty if the licensee fails to comply with process server costs. The licensee has been severely reprimanded by the Board three times prior.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes the Board to impose discipline when nurses are “guilty of a felony, or any offense reasonably related to the qualifications, functions or duties of any licensee;” “intemperate in the use of alcohol or drugs” in a way which endangers patients, or “guilty of unprofessional conduct as defined in the rules of the Board.” 59 O.S.Supp.2016, § 567.8(B)(2), (4), (7). The action seeks to enforce requirements aimed at protecting patients from compromised nursing care. The Board may reasonably believe this action will deter unacceptable conduct and promote safe and effective 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 that nurses provide a minimum standard of nursing care not compromised by substance abuse.

E. Scott Pruitt
ATTORNEY GENERAL OF OKLAHOMA