



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-27A

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 an agreed order in Board case 6.017.17. The licensee's registered nurse license is suspended. In 2012, the licensee voluntarily entered the Board's peer-assisted drug monitoring program after admitting substance abuse and addiction to Dilaudid, Morphine, and Hydrocodone. Before entering the program, the licensee diverted controlled pain medications for her personal use while on duty at a hospital. The licensee tested positive for Hydromorphone, Meperidine, and Morphine, as reported by a medical review officer. To the Board, the licensee further confessed to removing controlled dangerous substances from the medication dispensing station for her personal use and, in its place, would fill a syringe with saline and falsely present it to another nurse as the medication to be wasted. After three years in the peer-based substance abuse monitoring program, the licensee recently defaulted from the program. The proposed action is to accept the voluntary surrender of the license for two years. Prior to reinstatement, the licensee must meet the Board's guidelines. Upon reinstatement, the licensee will again be referred to the Board's peer-based substance abuse monitoring program. If the licensee defaults from the program again, the agreed order directs the Board to revoke the license for five years and impose a \$2,500 fine program again.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes agreed disciplinary orders accepting the voluntary surrender of a license, *see* 59 O.S.Supp.2016, § 567.4(F)(3)(d). The Act authorizes discipline when nurses are: "intemperate in the use of alcohol or drugs" in a way that "could endanger patients;" "guilty of unprofessional conduct as defined in the rules of the Board;" committing "any act that jeopardizes a patient's life, health or safety," and when they default from the Board's Peer Assistance Program, *see* 59 O.S.Supp.2016, § 567.8(B)(4), (7), (8), (11). The Board's rules include the "inaccurate recording, falsifying, altering or inappropriate destruction of patient records" as forms of unprofessional conduct, in addition to various acts related to the diversion of controlled drugs. OAC 485:10-11-1(b)(3)(A), (C), (D), (H), (T), (U). Conduct which jeopardizes a patient's life, health or safety includes "[u]nauthorized alterations of medications," and "failure to utilize appropriate judgment in administering safe nursing practice." OAC 485:10-11-1(b)(4)(C), (D). The action seeks to ensure the licensee seeks treatment for substance abuse problems while also achieving the public health

goal of protecting patients from compromised nursing care. Because of the licensee's past drug use while on duty and the recent default from the substance abuse monitoring program, it is reasonable for the Board to accept the voluntary surrender of the registered nurse license and require additional substance abuse monitoring upon reinstatement, with significant consequences if further default.

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 observe minimum standards of care and professionalism.

A handwritten signature in black ink, appearing to read "Scott Pruitt", with a large, stylized flourish above the name.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA