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

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 an agreed order in Board case 6.011.17. The proposed action is to refer the licensee to the peer-based substance abuse monitoring program and temporarily suspend the license until acceptance into the program. If the licensee is not accepted or defaults from the program, the agreed order authorizes the Board to revoke the license for two years and impose a fine of $2,000. The licensee admitted to abusing Xanax, Ativan, Klonopin, and Hydrocodone and requested a referral to the Board’s Peer Assistance Program. The licensee was previously disciplined by the Board in 2011 and has a criminal history consisting of domestic assault and battery in 2015, for which the licensee received a five-year deferred sentence. In 2016, the licensee was charged with possession of marijuana, petit larceny, and crimes related to the growing and propagating of a controlled dangerous substance.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1—567.20, authorizes agreed disciplinary orders involving the imposition of substance abuse monitoring. 59 O.S.Supp.2016, § 567.4(F)(3)(b). The Act imposes discipline when a licensee is: “guilty of a felony, or any offense reasonably related to the qualifications, functions or duties of any licensee, . . . or any offense an essential element of which is fraud, dishonesty, an act of violence... or moral turpitude;” “guilty of unprofessional conduct as defined in the rules of the Board;” or violates “a state or federal narcotics or controlled dangerous substance laws.” 59 O.S.Supp.2016, § 567.8(B)(2), (7), (9). The Board classified the licensee’s conduct as unprofessional because it is “detrimental to the public interest.” OAC 485:10-11-1(b)(3)(H). The Board’s action seeks to protect patients from receiving compromised care because of a nurse’s substance abuse problem. The Board may reasonably believe that suspending the license until the nurse is accepted into the drug monitoring program, with severe consequences imposed if the nurse defaults from the program, will deter future violations.
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 by ensuring nurses meet minimum professional standards.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA