



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2017-34A

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

January 27, 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 an agreed order in Board case 6.026.17. The proposed action is to grant the licensee's application for reinstatement and refer the licensee to the Board's peer-based substance abuse monitoring program. The license will be temporarily suspended until acceptance into the program. If the licensee is not accepted within sixty days of reinstatement 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's criminal history gives cause for concern. In July 2014, the licensee was charged with unlawful possession of drug paraphernalia, a misdemeanor. The licensee received a one-year deferred sentence with seven months of supervised probation by the district attorney, one year of hair follicle testing, and payment of the assessment, fees, and costs. In August 2016, the court extended the deferred sentence another year. In April 2015, the licensee was charged with the Misdemeanor of Possession of Hydrocodone, a controlled dangerous substance. The licensee received a one-year deferred sentence that runs consecutively to the 2014 sentence, seven months of supervised probation by the district attorney, and one year of hair follicle testing. In May 2015, the licensee was charged with two misdemeanors for violations of the Compulsory Education Act. The licensee received a thirty-day deferred sentence for each.

The Oklahoma Nursing Practice Act, 59 O.S.2016, §§ 567.1–567.20, authorizes agreed disciplinary orders that require an applicant or licensee to enter and comply with the Peer Assistance Program, *see* 59 O.S.Supp.2016, § 567.4(F)(3)(b). Under the Act, the Board must impose discipline when a nurse is guilty of: "any offense reasonably related to the qualifications, functions, or duties of the licensee;" ... any offense involving "fraud, dishonesty, an act of violence, or . . . moral turpitude;" "any conduct resulting in the revocation of a deferred or suspended sentence or probation;" any violation of "state or federal narcotics or controlled dangerous substance laws;" or "unprofessional conduct as defined in the rules of the Board." 59 O.S.Supp.2016, § 567.8(B)(2), (7), (9). The Board classifies the licensee's conduct as unprofessional because it is "detrimental to the public interest." OAC 485:10-11-1(b)(3)(H). Such conduct "fails to conform to the accepted standards of the nursing profession . . . [and] could

jeopardize the health and welfare of the people.” OAC 485:10-11-1(b)(3). The Board’s action in this case 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 default, 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.

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

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA