



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-35A

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 to be taken by the Oklahoma Board of Nursing under an agreed order in Board case 6.027.17. The proposed action is to accept the voluntary surrender of the practical nurse license. Prior to reinstatement, the licensee must complete education courses in nursing jurisprudence and medication administration and pay a \$500 administrative penalty. Upon reinstatement, the licensee's practice must be supervised for six months in a hospital. If the licensee fails to submit the requisite self-assessment reports, the agreed order directs the Board to suspend the license for three months and impose a noncompliance penalty.

In the Fall of 2015, the licensee pled guilty to driving a motor vehicle under the influence of drugs and received a two-year deferred sentence and two years of supervised probation. Less than two weeks before this arrest, the licensee administered insulin to a resident at a long-term care facility without a physician's order. A nurse aide later found the resident unresponsive. The resident's blood glucose level was too low for the glucometer to register a value, and the resident had to be transported to the emergency department of a hospital. In 2011, the Board severely reprimanded the licensee for authorizing the administration of Xanax to a resident without a physician's order. The licensee's behavior gives the Board reasonable cause for concern on whether the licensee can provide adequate care to patients.

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 a nurse is: "fail[ing] to care for patients adequately or conform to the minimum standards of acceptable nursing;" "guilty of a felony, or any offense reasonably related to the qualifications, functions or duties of any licensee;" "guilty of unprofessional conduct as defined in the rules of the Board;" or commits "any act that jeopardizes a patient's life, health or safety as defined in the rules of the Board," *see* 59 O.S.Supp.2016, § 567.8(B)(2), (3), (7), (8), (9). The Board's rules classify the licensee's conduct as unprofessional in that it is "detrimental to the public interest." OAC 485:10-11-1(b)(3)(H). The Board also finds that the licensee's conduct "jeopardize[d] a patient's life, health or safety" by administering "[u]nauthorized alterations of medications," and "fail[ing] to utilize appropriate

judgment in administering safe nursing practice.” OAC 485:10-11-1(b)(4)(C), (D). This action seeks to protect patients from receiving inadequate or compromised care. Because of the licensee's criminal sentence and repeated unauthorized administration of medication, it is reasonable for the Board to accept the voluntary surrender of the registered nurse license and require additional education before reinstatement as well as six months of supervised practice after reinstatement.

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 "E. Scott Pruitt", with a long horizontal stroke extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA