



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2017-38A

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 6.028.17. The proposed action is to accept the voluntary surrender of the license until the licensee meets the Board's requirements for reinstatement. Upon reinstatement, the license will be temporarily suspended pending admission into the Board's Peer Assistance Program, a drug and alcohol monitoring program. If the licensee is not accepted into the program or defaults from the program, the agreed order dictates revocation of the license for five years and imposition of a \$1000 fine. The licensee became reasonably suspected of drug abuse, while working in the post-anesthesia care unit of a hospital, because of withdrawal behaviors and unaccounted for controlled dangerous substance medications, specifically Hydromorphone and Fentanyl. The licensee tested positive for Fentanyl and was thereafter terminated from the hospital.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes agreed disciplinary orders that accept the voluntary surrender of a license, *see* 59 O.S.Supp.2016, § 567.4(F)(3)(d). The Act authorizes the Board to impose discipline when a nurse: “[f]ail[s] to adequately care for patients or conform to the minimum standards of acceptable nursing;” is “guilty of unprofessional conduct as defined in the rules of the Board;” commits “any act that jeopardizes a patient’s life, health or safety as defined in the rules of the Board;” or violates “a state or federal narcotics or controlled dangerous substance law.” 59 O.S.Supp.2016, § 567.8(B)(3), (7), (8), (9). The Board finds the licensee guilty of unprofessional conduct because of “failure[s] to maintain proper custody and control of controlled dangerous substances.” OAC 485:10-11-1(b)(3)(T). The Board considers the licensee’s conduct as jeopardizing to a patient’s life, health or safety, because of the “failure to utilize judgment in administering safe nursing practice.” OAC 485:10-11-1(b)(4)(D). This action seeks to ensure the licensee seeks treatment for substance abuse, while also achieving the public health goal of protecting patients from compromised nursing care. The Board may reasonably believe that accepting the voluntary surrender of license and requiring drug monitoring upon reinstatement will deter future issues stemming from drug dependence and protect patients.

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 substance abuse does not compromise nursing care.

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