



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-73A

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

February 14, 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 in Board case 3.125.17. The proposed action is to accept the voluntary surrender of the Licensed Practical Nurse's license. The action also imposes conditions on any future consideration of a reinstatement of the license. The conditions include a six-month requirement before applying for reinstatement, a \$500 fine, and completion of courses in nursing law, critical thinking, and Licensed Practical Nurse roles in long-term care. The conditions also require 1,440 hours of supervised practice upon reinstatement and that cardiopulmonary resuscitation certification be maintained.

A long-term care resident had symptoms including shortness of breath with a low blood oxygen saturation level. Rather than inform a physician, the licensee administered oxygen without a physician order. The licensee then failed to assess or document the results of the oxygen administration. Twenty minutes later, the licensee was informed that the resident was unresponsive and lacked a pulse. Even though the resident had a legal status requiring resuscitation, licensee took no action. The patient died. The licensee requested to voluntarily surrender the license, declaring no intent to return to the nursing profession.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes the Board to impose discipline on licensees who fail to “adequately care for patients or to conform to the minimum standards of acceptable nursing” in a way that “exposes a patient or other person to risk of harm” as well as those who have “jeopardize[d] a patient’s life, health or safety as defined in the rules of the Board,” 59 O.S.Supp.2016, § 567.8(B)(3), (8). The Board’s rules include “[f]ailure to utilize appropriate judgment in administering safe nursing practice or patient” as a form of jeopardizing a patient’s life, health, or safety. OAC 485:10-11-1(b)(4)(D). The Board could reasonably conclude that the licensee’s actions exposed the patient to a risk of harm and jeopardized the patient’s life. The proposed action, in accepting the voluntary surrender of the license, will prevent future patients from being endangered by the licensee’s conduct. The Board’s conditions on reinstatement requiring coursework, fines, and supervision are also reasonably fashioned to prevent future harm, although the Board must carefully assess any reinstatement

application or supervised practice reports as part of its mission to safeguard patients' life, health, and safety.

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 requiring adequate nursing care that is safe and does not endanger patients.

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