



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-76A

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 3.134.17. The proposed action is to deny an application for reinstatement of a Registered Nurse license. The proposed action also revokes the license for two years and sets conditions for future reinstatement. The conditions include compliance with the Board's substance abuse reinstatement guidelines and entry into the Board's substance abuse monitoring program upon return. If the licensee defaults from substance abuse monitoring after being reinstated, the action requires an additional two-year revocation and payment of fines and costs totaling \$4,976.61.

Across several days in August 2014, the licensee had inappropriately documented or handled controlled dangerous substances. On three occasions, the licensee removed controlled dangerous substances from drug inventories without documenting their waste or administration. On two occasions, the licensee documented administering controlled dangerous substances in violation of physician orders. On another occasion, the licensee documented administration of a controlled dangerous substance while the patient was apparently in surgery and recovery. The licensee allowed the license to lapse at the end of 2014 without seeking renewal. Several months later, the licensee applied for reinstatement. After beginning its investigation of the reinstatement application, the Board's staff also filed a disciplinary complaint related to the events in August 2014.

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,” engages in “unprofessional conduct as defined in the rules of the Board,” or 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), (7), (8). The Board’s rules include as unprofessional conduct the inaccurate recording or falsification of patient records, the false manipulation of drug supplies, the appropriation of medication without authority, and the diversion or attempted diversion of drugs or controlled dangerous substances. OAC 485:10-11-1(b)(3)(A), (C), (D), (U). The Board’s rules

also 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).

These statutes and rules express the State’s interests in ensuring the adequate control of dangerous substances, particularly among professionals entrusted with access to those substances. They also implicate the State’s interest in adequate, safe nursing care that includes the accurate preparation of patient records.

The Board could reasonably conclude that the licensee’s actions exposed patients to the risk of harm, amounted to unprofessional conduct, and jeopardized the State’s control of dangerous drugs. The proposed action prevents any future attempt to divert drugs or manipulate patient records while providing a pathway for the licensee to return to practice in the future.

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 policies requiring an adequate standard of nursing care and professionalism among nurses.

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

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA