



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-77A

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 3.091.16. The proposed action is to approve an application for reinstatement of a suspended license but to require participation in the Board's substance abusing monitoring program. The action also revokes the license for two years if the licensee defaults from the monitoring program while requiring compliance with substance abuse reinstatement guidelines before a future reinstatement.

The licensee was terminated from two hospitals in 2014 after displaying impaired behavior such as slurred speech while at work, indicating substance abuse. In the first case, the licensee refused to submit to drug testing; in the second, the licensee provided a sample that did not meet temperature requirements, indicating it was diluted, altered, or otherwise tampered with. In 2015, the Board entered an agreed order requiring licensee to submit to body fluid testing and obtain a substance abuse evaluation. A Board-approved substance abuse evaluation involves careful evaluation by a licensed mental health professional with at least three years' experience in substance abuse care. The order required that the licensee schedule an appointment with the substance abuse evaluator and notify the Board within 14 days. The licensee failed to provide notice of an appointment within 14 days, and the license was then temporarily suspended pending the Board's consideration of the case, including the substance abuse evaluation.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes the Board to impose discipline on licensees who whose use of alcohol or drugs could endanger patients, who exhibit a pattern of behavior resulting in unsafe nursing care due to alcohol or drug-related impairment, or who violate an "order of the Board," 59 O.S.Supp.2016, § 567.8(B)(4), (5), (9). These statutes speak to the State's important interest in ensuring adequate nursing care not impaired by substance abuse. The proposed action, by providing for substance abuse monitoring, allows the licensee to continue practicing nursing while carefully monitoring for any future problems caused by substance abuse. The Board could reasonably believe such monitoring necessary in the context of this case.

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 safe and adequate nursing care not compromised by substance abuse.

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