



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-79A

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 pursuant to a consent agreement in Board case 3.188.17. The proposed action is to allow an applicant for licensure to sit for the Licensed Practical Nurse exam while suspending the license upon passage and requiring entry into substance abuse monitoring at that time. The action also requires a two-year revocation if the license defaults from substance abuse monitoring. As conditions for reinstatement after any such revocation, the action requires payment of a \$500 fine, compliance with the Board's substance abuse reinstatement guidelines, and participation in the Board's substance abuse monitoring program after reinstatement. The applicant disclosed misdemeanor alcohol and marijuana convictions from 2009 and a driving under the influence conviction from 2014, which indicate potential substance abuse risks.

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, who are guilty of crimes reasonably related to the qualifications or duties of a licensee, who violate an “order of the Board,” or who default from the Board's substance abuse monitoring program, 59 O.S.Supp.2016, § 567.8(B)(2), (4), (5), (9), (11). These statutes speak to the State's important interest in ensuring adequate nursing care not impaired by substance abuse.

The proposed action, which received the consent of the licensee, provides for substance abuse monitoring, which creates a pathway for the licensee to practice nursing while carefully monitoring for any problems caused by substance abuse. The action also prescribes consequences for default from that program that are reasonably fashioned to prevent patient harm. The Board could reasonably believe such monitoring necessary based on the applicant's history of crimes related to substance abuse.

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 "E. Scott Pruitt". The signature is stylized with a large, sweeping initial "E" and a horizontal line extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA