



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2017-681A

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

September 21, 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 consent agreement in Board case 6.005.18. The licensee in this case is licensed as a registered nurse (RN). The licensee's RN license was suspended pursuant to 59 O.S.Supp.2016, § 567.17(I). The proposed action of the Board is for the licensee's RN license to remain suspended and to re-fer the licensee to the Board's Peer Assistance Program (PAP). The Board further proposes that the licensee submit an application for reinstatement within 60 days of acceptance to the PAP. The Board has also determined that if the licensee fails to timely submit a reinstatement application then the licensee's RN license will be revoked for 5 years. The Board has also determined that if the licensee is not accepted into the PAP within 60 days of receipt of the Order and/or the licensee terminates/defaults from the PAP, then the license will be revoked for 5 years. Furthermore, if the license is revoked under these circumstances, then the licensee must pay an administrative penalty in the amount of \$1,000, and to be reinstated the licensee must also meet the Board's Guidelines for Individuals Requesting Reinstatement After Suspension, Surrender or Revocation for Misappropriation or Misuse of Drugs/Alcohol.

On August 12, 2016, the licensee voluntarily entered the Board's PAP after admitting to an abuse and/or addiction problem with drugs and/or alcohol (specifically methamphetamines). The licensee admitted to Board staff that the licensee had been snorting methamphetamines since 2015. On April 26, 2017, the licensee defaulted from the PAP for failure to comply with the terms and conditions of the licensee's Contract and Amended Contracts with the Peer Assistance Committee. The licensee admits that the licensee has a substance use disorder and has requested a re-referral to the PAP.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.26, authorizes the Board to impose discipline when a nurse “[i]s intemperate in the use of alcohol or drugs, which use the Board determines endangers or could endanger patients,” “[i]s guilty of unprofessional conduct,” “[i]s guilty of any act that jeopardizes a patient's life, health or safety,” has “[v]iolated a rule promulgated by the Board, an order of the Board, or a state or federal law relat[ed] to the practice of . . . nursing . . . or a state or federal narcotics or controlled dangerous substance law” and/or “[h]as defaulted from the [PAP] for any reason.” 59 O.S.Supp.2016, § 567.8(B)(4), (7-9), (11). “Unprofessional conduct” includes, but is not limited to, “conduct detrimental to the public

interest.” OAC 485:10-11-1(b)(3)(H). Further, the Act also provides that “[a] nurse may apply to participate in the [PAP] program by choice or may be directed to apply to the [PAP] program by an order of the Board. In either case, conditions shall be placed on the nurse’s license to practice nursing during the period of participation in the [PAP].” 59 O.S.Supp.2016, § 567.17(K); *see also id.* § 567.17(H), (I). Moreover, the Act authorizes the Executive Director of the Board to enter “[a]greed disciplinary orders requiring an applicant or licensee to enter and comply with the [PAP].” *Id.* § 567.4(F)(2), (3)(b). The disciplinary actions the Board is authorized to take against a nurse that violates the Act include, but are not limited to, “[d]eny[ing], revok[ing] or suspend[ing]” a license, “assess[ing] administrative penalties” and “otherwise disciplin[ing] licensees.” 59 O.S.Supp.2016, § 567.8(A)(1)(b), (2-3); *see also* OAC 485:10-11-1(a). The Board may reasonably believe that the proposed disciplinary action and the licensee’s re-referral to the PAP is necessary to deter future violations and to protect patient welfare by ensuring that nurses are working substance free.

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 nurses provide adequate care uncompromised by substance abuse and meet minimal standards of professional conduct.



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