



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-176A

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

November 18, 2015

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 3.211.16. The proposed action is to revoke the respondent's license for five years and impose several requirements to obtaining a reinstatement. The requirements include payment of fines and costs totaling \$3,736.25, submission to random drug screening for the two years prior to reinstatement, and documentation of participation in a substance abuse support group or system for two years prior to reinstatement. The licensee wrote physician orders for medication claiming they were for patients and then picked them up from a pharmacy without ever placing them in workplace inventory—in other words, licensee created false prescriptions and diverted the resulting drugs. The licensee then entered the Peer Assistance Program, defaulted, and later pled guilty to crimes involving attempts to gain, either through larceny or deception, controlled dangerous substances.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2015, §§ 567.1–567.20, authorizes the Board to impose discipline when a nurse is “guilty of . . . any offense an essential element of which is fraud, dishonesty, or an act of violence,” when a nurse is “intemperate in the use of alcohol or drugs,” when a nurse is “guilty of unprofessional conduct,” when a nurse has violated “an order of the Board,” and when a nurse has “defaulted from the Peer Assistance Program,” 59 O.S.Supp.2015, § 567.8(B)(2), (4), (7), (9), (11). Unprofessional conduct includes “presenting a forged prescription” and “diversion or attempts to divert drugs or controlled substances.” OAC 485:10-11-1(b)(3)(O), (U).

The action seeks to enforce these requirements that protect the public from illicit sources of controlled dangerous substances. The Board may reasonably believe that the licensee's conduct requires significant deterrence and that preventing future violations requires the revocation of a license and substantial evidence of treatment of substance abuse problems. The licensee's prior default from drug and alcohol treatment along with later criminal charges indicating additional attempts to gain illicit control of controlled dangerous substances militates in favor of the Board's serious penalties.

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 patient health, safety, and welfare.

A handwritten signature in black ink, appearing to read 'E. SCOTT PRUITT', written in a cursive style.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA