



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2015-180A

Billy Stout, M.D., Board Secretary
State Board of Medical Licensure and
Supervision
101 NE 51st Street
Oklahoma City, Oklahoma 73105

December 9, 2015

Dear Board Secretary Stout:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Medical Licensure and Supervision intends to take with regard to an application for reinstatement by former physician assistant licensee 1298. The Board denied the application due to a failure of a motion of the Board reinstating the license to pass with a majority—the vote was evenly tied.

The licensee had been subject to disciplinary proceedings in 2014 for not being properly supervised by a physician and for being identified as a “doctor” to patients calling the licensee’s workplace. To resolve that prior discipline, the licensee entered a Voluntary Surrender of License in Lieu of Prosecution—a licensee’s voluntary decision available under Oklahoma statutes that requires an admission of guilt and surrender of license, *see* 59 O.S.2011, § 509.1(E).

The key issue underlying licensee’s difficulty with the Board on supervision and being identified as a “doctor” is that the licensee is also a licensed chiropractor. For example, during the hearing on the current reinstatement application, one Board member commented at length about the possibility of confusion between the licensee’s role as a physician assistant within conventional medicine and the licensee’s role as a chiropractor. As part of the current reinstatement application, licensee offered to take several steps to mitigate this possibility of confusion, including separating the physical workplaces where the two professions were performed. The licensee even verbally offered, at the hearing, to locate a chiropractic clinic in a separate county from where the licensee would perform physician assistant services.

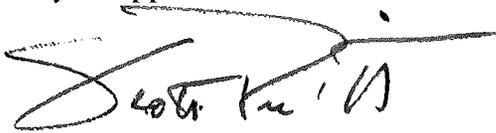
The Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act, 59 O.S.2011 & Supp.2015, §§ 480–519, makes it a felony to practice medicine and surgery without a license, 59 O.S.2011, § 491(A)(1)–(2). The practice of medicine and surgery includes the use of phrases such as “physician,” “doctor,” or “M.D.” *See* 59 O.S.2011, § 492(A), (C)(5). However, the practice of medicine does not include the use of a designation such as “doctor” when that title “additionally contains the description of another branch of the healing arts for which one holds a valid license” in Oklahoma. *Id.* § 492(C)(5); *see also id.* § 492(D)(4), (9), (E)(2), (F). Thus, if

Oklahoma law elsewhere authorizes chiropractors to use the title of “doctor,” the Act could not be said to prohibit licensee from using that title so long as it identified only the licensee’s practice as a chiropractor and not as a physician assistant.

Oklahoma law does recognize chiropractors as “doctors.” *See* 59 O.S.2011, § 161.2 (referring to a “chiropractic physician”); *id.* § 161.3(6) (referring to “[c]hiropractic physician” and “doctor of chiropractic”); *id.* § 161.15 (recognizing that “[d]octors of chiropractic” may sign death certificates as well as all other public health certificates on the same terms as osteopathic and allopathic physicians).

The Oklahoma Legislature, through the statutes, has evinced a policy of recognizing chiropractors as “doctors” or “physicians.” While the Board may be appropriately concerned about the possibility that confusion might arise from the licensee’s dual license-holding, the denial of licensee’s application for reinstatement cannot be said to advance a statutory policy, particularly in light of the licensee’s willingness to accept conditions of practice on the physician assistant license. Instead of denying the application, the Board should approve the application and impose conditions of practice on the physician assistant license that would reduce the likelihood of confusion. Those conditions may include location, patient, designation, and timing restrictions.

It is, therefore, the official opinion of the Attorney General that the State Board of Medical Licensure and Supervision lacks adequate support for the conclusion that this action advances the State of Oklahoma’s policy to protect public health and ensure patient welfare. The action is hereby **disapproved**.

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

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA