



OFFICE OF ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2017-688A

Chelsea O. Church, D.Ph., Pharm.D., BCPS, Executive Director  
State Board of Pharmacy  
2920 N. Lincoln Blvd., Suite A  
Oklahoma City, Oklahoma 73105

September 21, 2017

Dear Executive Director Church:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Pharmacy intends to take pursuant to an Agreed Order with respect to pharmacy 99-7152 and pharmacist licensee #17326. The proposed action of the Board is to fine the pharmacy \$7,600 and the licensee \$900.

The pharmacy is located in North Carolina. The licensee is the pharmacist-in-charge of the pharmacy. On February 4, 2015, the pharmacy obtained its Oklahoma pharmacy license. The pharmacy did not have an Oklahoma licensed pharmacist-in-charge for its 2016 pharmacy renewal. The Board notified the pharmacy of the requirement of having an Oklahoma licensed pharmacist-in-charge. After the pharmacy failed to respond, the pharmacy's application and fee were returned and the license was cancelled on March 31, 2016. On January 27, 2017, the licensee was issued Oklahoma pharmacist's license #17326. On February 5, 2017, the pharmacy's license was reinstated after the pharmacy hired the licensee as its pharmacist-in-charge. On April 21, 2017, the Board was notified by the North Carolina Board of Pharmacy that the pharmacy had shipped prescriptions into Oklahoma during the time that it was not licensed. The Board requested a copy of prescriptions that had been shipped into Oklahoma. From April 4, 2016 until December 12, 2016, when the pharmacy was not licensed in Oklahoma, the pharmacy shipped a total of 76 prescriptions into Oklahoma, 36 of the prescriptions were filled by the licensee.

The Oklahoma Pharmacy Act, 59 O.S.2011 & Supp.2016, §§ 353–355.2, seeks to “promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of pharmacy” within the State. 59 O.S.2011, § 353(B); *see also* 59 O.S.Supp.2016, § 353.1(37)(g). The Act gives the Board “the power and duty to [] [r]egulate the practice of pharmacy.” 59 O.S.Supp.2016, § 353.7(1). In doing so, the Act authorizes the Board to “[m]ake and publish rules such as may be necessary for carrying out and enforcing the provisions of the [Act], Oklahoma drug laws and rules, federal drug laws and regulations, and make such other rules as in its discretion may be necessary to protect the health, safety, and welfare of the public[.]” *Id.* § 353.7(14); *see also id.* § 353.7(13). Furthermore, the Act gives the Board the power to discipline licensees that violate the Act or the Board's rules. *See id.* § 353.7(12). Such disciplinary actions may include, but are not limited to, “[r]eprimand[ing], plac[ing] on probation,

suspend[ing] [and] revok[ing]” licenses; “levy[ing] fines;” “requir[ing] additional continuing education, including attendance at a live continuing education program;” and/or “tak[ing] other disciplinary action[s]/[.]” *Id.* § 353.7(12); *see also id.* § 353.7(18). The Act specifically provides that it is “unlawful . . . to sell at retail or to offer for sale, dangerous drugs, medicines, chemicals or poisons for the treatment of disease . . . or to accept prescriptions for same, without first procuring a license from the [Board].” *Id.* § 353.18(A)(1). The Board rules also state that a “non-resident pharmacy shall . . . make application and receive an annual non-resident pharmacy license at a fee set by the Board.” OAC 535:15-3-9(b)(1). The “Oklahoma pharmacy laws and regulations . . . apply to the practice of pharmacy for the Oklahoma portion of [a] nonresident pharmacy’s practice or operation.” OAC 535:15-3-9(c). Furthermore, the Board’s rules provide that “[r]egistrants shall conduct business in conformity with all federal, state and municipal laws at all times.” OAC 535:25-7-3(a). “[Pharmacists-in-charge] and pharmacy owner(s), partners, and corporate officer(s) [are] responsible for compliance with Oklahoma laws and regulations pertaining to the provisions of receiving, dispensing, and/or delivering of prescriptions or prescription medications and devices to Oklahoma residents.” OAC 535:15-3-9(c)(2). The action proposed by the Board seeks to enforce these requirements. The Board may reasonably believe that the disciplinary action is necessary to deter future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Pharmacy has adequate support for the conclusion that this action advances the State of Oklahoma’s policy to promote, preserve and protect the public health, safety and welfare by and through the effective control and regulation of the practice of pharmacy and of the registration of drug outlets engaged in the manufacture, production, sale and distribution of dangerous drugs and medication.



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