



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-739A

Cindy Fain, D.Ph.
Executive Director
State Board of Pharmacy
2920 N. Lincoln Blvd., Ste. A
Oklahoma City, Oklahoma 73105

December 19, 2016

Dear Executive Director Fain:

This office received your request for a written Attorney General Opinion regarding agency action the State Board of Pharmacy intends to take under a consent agreement with pharmacist licensee 16318. The proposed action is to fine the licensee a total of \$2,000 and require the licensee to complete an eight-hour law seminar, in addition to the fifteen hours of continuing education required annually. The licensee's required continuing education hours for 2017 and 2018 must be obtained through live seminars in the presence of other professionals, and the licensee must attend error prevention classes of no less than three hours duration. The compliance officer found the licensee misfilled prescriptions and gave improper label instructions in several cases.

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). The Act authorizes the Board to promulgate rules for regulating pharmacy and protection of public health, 59 O.S.Supp.2016, § 353.7(14), and the Board has promulgated rules that prohibit misfilling prescriptions, OAC 535:25-9-9, and requires licensees to have effective controls against prescription errors, OAC 535:25-9-8(1). This action seeks to enforce these requirements and protect the public health by preventing patient safety from being further compromised. The Board may reasonably believe the actions of imposing a fine and requiring additional education is adequate to deter future violations.

It is, therefore, the official opinion of the Attorney General that the Oklahoma State Pharmacy Board has adequate support for the conclusion this action advances the State of Oklahoma's policy to protect the public health, safety, and welfare.

A handwritten signature in black ink, appearing to read "E. Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA