



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-686A

Chelsea O. Church, D.Ph., Pharm.D., BCPS, Executive Director
Oklahoma 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 technician T-14756. While working as a pharmacy technician, the technician stole Fioricet with Codeine and Butalbital/Acetaminophen/Caffeine for personal use for headaches when the technician could not make it from one refill to another on the technician's prescribed medication. The proposed action of the Board is to revoke the technician's permit.

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.” *Id.* § 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). The Act also authorizes the Board to “[a]dopt and establish rules of professional conduct[.]” *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 Board's rules specifically provide that “[t]heft while working as a registrant is a violation of registrant conduct.” OAC 535:25-9-7. The Board rules also provide that “[r]egistrants shall conduct business in conformity with all federal, state and municipal laws at all times” and that “[r]egistrants shall conduct themselves at all times in a manner that will entitle them to the respect and confidence of the community in which the practice.” OAC 535:25-7-3(a),(b). Oklahoma law provides that it is “unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course

of his or her professional practice[.]” 63 O.S.Supp.2016, § 2-402(A)(1). The action proposed by the Board seeks to enforce these requirements.

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.



MIKE HUNTER
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