



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-742A

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 pharmacy licensee 14-7114. The proposed action is to place the licensee on probation for one year and impose fines totaling \$6,000. In addition, as part of implementing an error prevention program at the pharmacy, all pharmacists and technicians who are employees during the probationary period must complete the community pharmacies' Risk Assessment for Medication Safety course written by the Institute for Safe Medication Practices, and every new prescription filled during the probationary period must be audited, up to fifty prescriptions daily. The Compliance Officer found the pharmacy and staff pharmacist responsible for a high rate of misfilled prescriptions and improper label instructions.

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 necessary for regulating pharmacy and protection of public health, 59 O.S.Supp.2016, § 353.7(14), and the Board has promulgated rules that prohibit the misfilling of prescriptions, OAC 535:25-9-9, and require 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 compromised further. The Board may reasonably believe the actions of imposing a fine and requiring additional education and prescription review 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