



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-723A

Kim Glazier, Executive Director
Oklahoma Board of Nursing
2915 N. Classen Blvd., Ste. 524
Oklahoma City, Oklahoma 73106

November 21, 2016

Dear Executive Director Glazier:

This office has received your request for a written Attorney General Opinion regarding agency action to be taken by the Oklahoma Board of Nursing in Board case 3.126.17. The proposed action is to enter an agreed order of continuance of the hearing on the merits of the complaint until the Board's next meeting. The licensee must notify the Board of any employment as a registered nurse in Oklahoma and must provide copies of the complaint and the agreed order of continuance to current and future employers.

In October and November of 2012, the licensee pled guilty twice to violating a protective order. Further, it is alleged that in May 2015 the licensee was terminated from a long term care center after two incidents. The first incident involved an argument between the licensee and a resident in which the licensee was overheard telling the resident "I don't like you either." One week later, the licensee was observed shaking the chair of another resident, attempting to cause the resident to remove the resident's hand from the chair. When unsuccessful, the licensee physically removed the resident's hand from the chair in a rough manner. It is also alleged that in January 2016 the licensee told a resident in a long term care center not push the resident's call light, saying that staff were busy. The resident and the resident's roommate both reported feeling afraid of the licensee. The licensee resigned from the center in lieu of termination. The licensee also submitted license renewal applications in 2014 and 2016 without reporting the 2012 misdemeanor protective order violations. While the licensee's attorney received the Board's complaint and notice, the licensee claimed not to have received the documents.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes the Board to impose discipline when a nurse "is guilty of deceit or material misrepresentation in procuring or attempting to procure" a license, "is guilty of a felony, or any offense reasonably related to the qualifications, functions or duties" of a nurse, "fails to adequately care for patients or to conform to the minimum standards of acceptable nursing" in a way that "exposes a patient or other person to risk of harm," is "guilty of unprofessional conduct," or "is guilty of any act that jeopardizes a patient's life, health or safety," 59 O.S.Supp.2016, § 567.8(B)(1)(a), (2), (3), (7), (8). Unprofessional conduct includes "verbally or physically abusing patients" and "falsifying documents submitted to the Board of Nursing." OAC 485:10-11-1(b)(3)(B), (E).

Conduct which jeopardizes a patient's life, health or safety includes "failure to utilize appropriate judgment in administering safe nursing practice." OAC 485:10-11-1(b)(4)(D).

The Board's applications require the disclosure of all criminal history so that the Board may make an informed decision on licensure of individuals with statutorily relevant criminal histories. The action enforces requirements that information provided in applications is accurate. The action further enforces requirements ensuring nurses provide adequate care. The Board may reasonably believe that granting a continuance subject to the licensee providing notice to current and future employers, as described above, is necessary to protect patients.

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



E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA