



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2016-728A

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 3.129.17. The proposed action is to issue an order of emergency temporary suspension of the license pending a hearing. It is alleged that while working in a hospital on March 2, 3, and 12, 2015 the licensee failed to document the administration or waste of Schedule II controlled medications including Fentanyl and Morphine on behalf of three patients and appeared impaired on these dates including having small pupils, sweating, and frequently visiting the restroom. The Board has been unable to reach the licensee despite several attempts via certified mail, telephone calls, and electronic mail messages.

The Oklahoma Nursing Practice Act, 59 O.S.2011 & Supp.2016, §§ 567.1–567.20, authorizes the Board to impose discipline when 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,” “is guilty of any act that jeopardizes a patient’s life, health or safety,” or has violated state or federal law related to nursing, 59 O.S.Supp.2016, § 567.8(B)(3), (7), (8), (9). Unprofessional conduct includes falsifying patient records, falsely manipulating drug supplies, appropriating medications without authority, failing to maintain custody of CDS medications, and diversion of drugs or controlled substances. OAC 485:10-11-1(b)(3)(A), (C), (D), (T), (U). Conduct which jeopardizes a patient's life, health or safety includes “unauthorized alterations of medications,” and “failure to utilize appropriate judgment in administering safe nursing practice.” OAC 485:10-11-1(b)(4)(C), (D). The action enforces requirements ensuring that nurses provide adequate care which is uncompromised by substance abuse and that nurses properly account for controlled medications. Under these circumstances, the Board may reasonably believe that suspending the license pending a merits hearing 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.

A handwritten signature in blue ink, appearing to read "E. Scott Pruitt". The signature is stylized with a large, sweeping initial "E" and a long horizontal line extending to the right.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA