



OFFICE OF THE
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION
2023-15A

Jenny Barnhouse, Executive Director
Oklahoma Board of Nursing
P.O. Box 52926
Oklahoma City, OK 73152

June 29, 2023

Re: Keith, Case No. 3.2022020126.23

Dear Executive Director Barnhouse:

This office has received your request for a written Attorney General Opinion regarding action that the Oklahoma Board of Nursing intends to take in case 3.2022020126.23. The Respondent holds a single-state LPN license.

The Oklahoma Nursing Practice Act authorizes the Board to impose discipline when a nurse “[i]s guilty of a felony,” “[f]ails to adequately care for patients or to conform to the minimum standards of acceptable nursing” in a way that “unnecessarily exposes a patient or other person to risk of harm[,]” “[i]s intemperate in the use of . . . drugs,” “[i]s guilty of unprofessional conduct[,]”¹ “[i]s guilty of any act that jeopardizes a patient’s life, health or safety[,]”² or has violated state or federal law related to nursing. 59 O.S.2021, § 567.8(B)(2–4), (7–9). The Board may reasonably believe that the proposed action is necessary to deter future violations.

According to Board complaint, in February 2022, the Respondent was terminated from her position at a nursing home after admitting to a substance-abuse problem, diverting a patient’s Schedule II CDS medication for personal use and subsequently destroying the patient’s narcotic record. After being charged with felony larceny of CDS in March 2022, Respondent pled guilty to felony larceny of CDS in September 2022 and was ordered to serve a five-year deferred sentence, supervised probation, a psychological assessment and payment of a fee, assessment, VCA and costs. Respondent also failed to cooperate with the Board’s investigation, and all attempts to contact the

¹The rules of the Board define unprofessional conduct to include “falsifying . . . patient records[,]” “falsely manipulating . . . narcotics or patient records[,]” “appropriating[,] without authority[,] medications, supplies or personal items of the patient or agency[,]” “conduct detrimental to the public interest[,]” “failure to maintain proper custody and control of controlled dangerous substances of the patient or agency[,]” “diversion or attempts to divert . . . controlled substances[,]” “failure to cooperate with a lawful investigation by the Board of Nursing staff” OAC 485:10-11-1(b)(3)(A), (C–D), (H), (T–U).

²The rules of the Board define conduct which jeopardizes a patient’s life, health or safety shall include failure to utilize appropriate judgment in administering . . . patient care[.]” OAC 485:10-11-1(b)(4)(D).

Respondent have been unsuccessful. Finding clear and convincing evidence of grounds for discipline and unprofessional conduct under 59 O.S.2021, § 567.8 and OAC 485:10-11-1(b) (3)(A), (C–D), (H), (T–U), the Board proposes to temporarily suspend the Respondent’s license pending a hearing on the merits.

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’s policy to protect public health, safety, and welfare by ensuring nurses meet minimum standards of professional conduct.


ROB JOHNSON
GENERAL COUNSEL