



OFFICE OF THE ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2023-29A

Marty Hendrick, Executive Director
Oklahoma State Board of Pharmacy
2920 N. Lincoln Blvd., Suite A
Oklahoma City, OK 73105

August 28, 2023

Re: Allen Community Pharmacy, Case No. 1657

Dear Executive Director Hendrick:

This office has received your request for a written Attorney General Opinion regarding disciplinary action the State Board of Pharmacy intends to take in Case No. 1657.

The Oklahoma Pharmacy Act authorizes the Board to regulate the practice of pharmacy. 59 O.S.2021, § 353.7. Specifically, “[t]he State Board of Pharmacy may . . . revoke permanently and levy fines . . . and take other disciplinary action” against a person who “[v]iolates any provision of the Oklahoma Pharmacy Act . . .” or “[c]onducts himself or herself in a manner likely to lower public esteem for the profession of pharmacy.” *Id.* § 353.26(A)(1), (5). “Failure to establish and maintain effective controls against the diversion of prescription drugs and/or controlled dangerous drugs into other than legitimate medical, scientific, or industrial channels as provided by federal, state or local laws or rules” is considered a violation of registrant¹ conduct OAC 535:25-9-8(2). Further, registrants are required to “conduct themselves at all times in a manner that will entitle them to the respect and confidence of the community in which they practice.” OAC 535:257-3(b). Pharmacies “must have a licensed pharmacist as the PIC [Pharmacist in Charge] . . . responsible for all aspects of the operation related to the practice of pharmacy.” OAC 535:15-3-2(b).

Respondent is a licensed pharmacy located in Allen. According to the Board complaint, an annual dispensing audit found a discrepancy in the inventory of hydrocodone and oxycodone which was disproportionate to the pharmacy’s purchasing and dispensing. The Pharmacist in Charge (“PIC”), David Campbell, D.Ph., was directed to return excess inventory of approximately 1300 pills. On the same day he agreed to return the inventory, Dr. Campbell reported a break-in had occurred at the pharmacy and the inventory in question was taken. In the ensuing investigation by state and federal officials, an audit determined that the pharmacy’s inventory evidenced more significant discrepancies in inventories of controlled substances beyond those associated with the purported theft, equating to over 18,000 tablets and capsules of controlled medication. Following a hearing in which Respondent was represented by counsel, the Board found by clear and convincing evidence that the pharmacy had violated the Board’s

¹Registrant is defined as “any holder of registration, certificate, license or permit that is regulated by the Board.” OAC 535:25-1-1.1.

administrative rules. The Board proposes the pharmacy be fined \$9,000.00, to be paid prior to September 30, 2023. Additionally, the Board proposes the owner of the Respondent pharmacy, David Campbell, D.Ph., License #12885, be required to make a “good faith effort” to sell the Respondent Pharmacy before September 30, 2023. If the Respondent Pharmacy is not sold by September 30, 2023, the pharmacy license of the Respondent pharmacy will be revoked as of September 30, 2023. The Board may reasonably believe the proposed action is necessary to deter future violations.

It is, therefore, the official opinion of the Attorney General that the State Board of Pharmacy’s proposed action is in accordance with the State’s policy to protect public health, safety, and welfare.



ROB JOHNSON
General Counsel