



OFFICE OF THE ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2025-1A

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

January 31, 2025

Re: Hays, Case No. 3.2023100229.25

Dear Executive Director Barnhouse:

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

The Oklahoma Nursing Practice Act (“Act”) authorizes the Board to impose discipline when a nurse “[i]s guilty of unprofessional conduct[,]”¹ “[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[,]” or “[i]s guilty of any act that jeopardizes a patient’s life, health or safety.”² 59 O.S.Supp.2023, § 567.8(B)(3, 7–8).

According to a Board complaint filed on October 1, 2024, the Respondent failed to provide the minimum standard of nursing care to a patient and the Respondent’s actions unnecessarily exposed that patient to harm and jeopardized the patient’s life. Respondent, while working as a staff nurse at a prison, was responsible for providing medical care to the patient on four (4) of the five (5) separate occasions over the course of seven (7) days from May 22, 2018 – May 29, 2018, that patient sought medical treatment for severe abdominal pain. Most significantly, on the morning of May 29, 2018, the Respondent failed to provide a wheelchair for the patient to be transported to the medical clinic for evaluation by a physician while he was complaining of shortness of breath and severe abdominal pain. Despite the patient’s medical history, the Respondent completed a Waiver of Treatment/Evaluation form on behalf of the patient. The Waiver of Treatment/Evaluation form provided the reason for refusal: “I don’t want to walk” and was signed by the patient. Later that same day, the patient died from acute peritonitis caused by a ruptured appendix, as confirmed by the Chief Medical Examiner’s report.

¹Unprofessional conduct includes “conduct detrimental to the public interest.” OAC 485:10-11-1(b)(3)(H).

² Conduct that jeopardizes a patient’s life, health, and safety includes failing to utilize appropriate judgment in “administering safe nursing practice” and “patient care.” OAC 485:10-11-1(b)(4)(D).

Additionally, on July 30, 2019, the Respondent was named as a defendant in the First Amended Complaint and Jury Demand in court case number 19-CV-00470, filed in the United States District Court for the Western District of Oklahoma. The complaint alleged the Respondent's failure to properly examine the patient, failure to send the patient for further testing, and failure to intervene in the denial of necessary medical care. The case settled, and the court dismissed the case with prejudice on July 17, 2023, following the settlement.

During a June 2024 telephonic investigative conference, the Respondent admitted to the Board staff that she could have been a better advocate for the patient by taking a wheelchair to the patient on May 29, 2018.

On November 13, 2024, the Respondent, with counsel, appeared before the Board and verbally requested a continuance of the Noticed Hearing in order to provide video evidence. The Board staff's legal counsel did not object to the request. However, due to the seriousness of the accusations in the complaint recommended granting the continuance provided the Respondent's single-state LPN license be placed on probation and the Respondent be placed under supervised practice. This measure was suggested to ensure continued supervision and mitigate the risk of further violations while the matter is pending.

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 is necessary to ensure public health, safety, and welfare by ensuring that nurses meet the minimum standards of professional conduct.

A handwritten signature in black ink, appearing to read "Cheryl Dixon", written in a cursive style.

CHERYL DIXON

Deputy General Counsel