



OFFICE OF THE  
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION  
2021-45A

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


October 25, 2021

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 3.2020110020.22. According to a Board complaint, in January 2020 the Respondent resigned from her job at a hospital after returning a result of 0.192% in a for-cause Breath-Alcohol Analyzer test while on duty. The Respondent failed to cooperate with a Board investigation. Currently the Respondent's RN license is lapsed. The Board proposes to lift the lapsed status and temporarily suspend the Respondent's license pending acceptance in the Peer Assistance Program ("PAP"). If PAP is not completed, the license will be revoked for two years. If the license is revoked, the Respondent must meet the Board guidelines for reinstatement and pay \$1,000 in administrative fees prior to reinstatement. Upon reinstatement after revocation, the Respondent will be referred to the PAP.

The Oklahoma Nursing Practice Act authorizes the Board to impose discipline when a nurse "[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 guilty of unprofessional conduct," or "[i]s guilty of any act that jeopardizes a patient's life, health or safety[.]" 59 O.S.Supp.2020, § 567.8(B)(3), (7), (8). Unprofessional conduct includes "conduct detrimental to the public interest," "failure to cooperate with a lawful investigation by Board of Nursing staff[]" and jeopardizing a patient's life, health, and safety by a nurse's "[f]ailure to utilize appropriate judgment in administering safe nursing practice" and "[f]ailure to utilize appropriate judgment in administering . . . patient care[.]" OAC 485:10-11-1(b)(3)(H), (V), (4)(D). The Board may reasonably believe that the proposed action is necessary to deter future violations.

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.

  
JOHN M. O'CONNOR  
ATTORNEY GENERAL OF OKLAHOMA

  
ETHAN SHANER  
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