



JOHN M. O'CONNOR
ATTORNEY GENERAL

**ATTORNEY GENERAL OPINION
2022-42A**

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

December 2, 2022

Re: Manley, Case No. 1646

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. 1646.

The Oklahoma Pharmacy Act authorizes the Board to regulate the practice of pharmacy. 59 O.S. 2021, § 353.7. The Board may suspend the license of any person who violates the Oklahoma Pharmacy Act or Uniform Controlled Dangerous Substances Act. *Id.* § 353.26(A)(1–2). The Uniform Controlled Dangerous Substances Act makes it unlawful for any person to possess a controlled dangerous substance knowingly or intentionally without a valid prescription. 63 O.S.2021, § 2-402(A)(1). A registrant¹ and/or pharmacist is required to “conduct business in conformity with all . . . laws” and “in a manner that will entitle them to the respect and confidence of the community. . . .” OAC 535:25-7-3(a–b), OAC 535:10-3-1.1(3). A registrant violates the rules of registrant conduct when the registrant uses an illegal CDS or commits theft while working. OAC 535-25-7-3(c), 535:25-9-7. A pharmacist violates the rules of professional conduct when a pharmacist knowingly makes a false report, practices pharmacy while abusing drugs, and fails to fulfil the responsibilities of Board rules. OAC 535:10-3-1.2(4–5), 25.

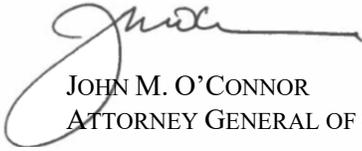
In January 2020, after Respondent appeared before the Board on complaints of diversion and abuse of controlled dangerous substances (“CDS”), the Board entered a voluntary order which, among other things, suspended Respondent’s license for ten years. Prior to the hearing, Respondent entered into a ten-year Recovery Monitoring Agreement (“RMA”) with OPHP and Respondent’s license suspension was stayed with the condition that Respondent remain compliant with the terms of the RMA.

In March 2022, Respondent was terminated from employment at a pharmacy after admitting to theft of CDS, including Oxycodone/APAP and Hydrocodone/APAP. Additionally, Respondent admitted to submitting fraudulent forms required under the terms of the RMA. The Board proposes to indefinitely suspend Respondent’s license and order Respondent to cease the practice of pharmacy by clear and convincing evidence. Respondent may request a stay of the suspension by appearing before the Board and demonstrating evidence that (1) Respondent is “Fit for Duty” and (2) safeguards are in place to protect the

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

public from risk of harm. 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.



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