



GENTNER DRUMMOND
ATTORNEY GENERAL

**ATTORNEY GENERAL OPINION
2023-1A**

Michael T. Leake, Jr., J.D., Executive Director
State Board of Osteopathic Examiners
4848 N. Lincoln Blvd., Ste. 100
Oklahoma City, Oklahoma 73105

February 3, 2023

Re: Augter, Case No. 2022-119

Dear Director Leake:

This office has received your request for a written Attorney General Opinion regarding action that the State Board of Osteopathic Examiners intends to take in Case Number 2022-119.

The Oklahoma Osteopathic Medicine Act authorizes the Board to “suspend or revoke any license issued . . . upon proof that the . . . holder of such a license . . . [h]as engaged in . . . unethical conduct or unprofessional conduct, as determined by the Board, in the performance of the functions or duties of an osteopathic physician.” 59 O.S.2021, § 637(A)(2). Further, the Board may also take action when a license holder “[h]as violated or failed to comply with provisions of any act or regulation administered by the Board.” *Id.* § 637(A)(5). Further, the Board’s rules require license holders to dispose of human tissue used for diagnostic and treatment purposes “by incineration in a pathological incinerator in the same manner as hazardous medical waste is handled under the applicable state statutes, rules, and regulations.” OKLA. ADMIN. CODE § 510:5-5-3(a).

According to a Board complaint, in August 2022, the Board alleged that Respondent unethically and unlawfully disposed of human tissue and hazardous medical waste, including needles, blood draw test tubes, glass sample bottles, and glass microscope slides over which one hundred (100) contained identifiable patient names. He dumped the hazardous medical waste or human tissue on his property near Lake Eufaula. And on December 18, 2022, following a hearing, the Board found that the license holder had violated the above-mentioned laws and rule by clear and convincing evidence. The Board proposes to suspend the Respondent’s license indefinitely and require the Respondent to do as follows: (1) provide the Board with documented evidence of an evaluation regarding the Respondent’s cognitive abilities by a qualified expert who has been approved by the Board or its Executive Director; (2) provide the Board with documented evidence of completion of a comprehensive course on record keeping which has been approved by the Board or its Executive Director; (3) payment of a fine and costs of investigation and prosecution; and

(4) personal appearance before the Board upon completion of the three preceding requirements. 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 Osteopathic Examiners has adequate support for the conclusion that this action advances the State's policy to protect the public welfare.



THOMAS R. SCHNEIDER
DEPUTY GENERAL COUNSEL