



OFFICE OF THE ATTORNEY GENERAL  
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION  
2024-3A

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

January 2, 2024

Re: Winterstein, Case No. 3.2023020073.24

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 pursuant to an Agreed Supplemental Stipulated Order in case 3.2023020073.24. The Respondent's single-state RN license was revoked in 2022.

The Oklahoma Nursing Practice Act authorizes the Board to impose discipline when a nurse "[i]s guilty of a felony," "[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 intemperate in the use of . . . drugs," "[i]s guilty of unprofessional conduct[.]"<sup>1</sup> "[i]s guilty of any act that jeopardizes a patient's life, health or safety[.]" or violates Board rules, state or federal law. 59 O.S.2021, § 567.8 (B)(2–4), (7–9).

According to a Board complaint, Respondent pled guilty to three felony counts of larceny of a CDS in December 2022. Respondent received a three-year deferred sentence, and was ordered to supervised probation, AA/NA community meetings, random drug testing for six months and payment of fines and fees. Additionally, Respondent failed to cooperate with a Board investigation and is in default. The Board now proposes that Respondent's license remain revoked pending completion of the terms of the Supplemental Order. Respondent must meet the Board's guidelines for reinstatement. Upon reinstatement, the Respondent will again be referred to PAP. If Respondent is not accepted into PAP, Respondent's license will be revoked for five years and will be required to meet the Board's guidelines for reinstatement and pay an administrative penalty of \$1000.00. Upon reinstatement, Respondent will be referred to the PAP. This proposed action follows the entry of one (1) stipulated order in September 2021, following allegations of patient abuse and a supplemental order later in 2021, in light of the Respondent being terminated from a

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<sup>1</sup>Unprofessional conduct includes "conduct detrimental to the public interest," obtaining property from a patient through "duress, deception or fraud," "diversion or attempts to divert drugs or controlled substances," and "failure to cooperate with a lawful investigation by Board[.]" OAC 485:10-11-1(b)(3)(H)(R)(U)(V).

home health agency after missing controlled dangerous substances were reported missing from patient homes.

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.



ROB JOHNSON  
*General Counsel*