



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-50A

Eric Ashmore, Executive Director
State Board of Behavioral Health Licensure
3815 N. Santa Fe Ave., Ste. 110
Oklahoma City, Oklahoma 73118

February 8, 2017

Dear Executive Director Ashmore:

This office has received your request for a written Attorney General Opinion regarding agency action that the State Board of Behavioral Health Licensure intends to take under a consent agreement in Board case 16-LPC-107. The proposed action is to impose a \$5,000 fine and require completion of a three-hour graduate level course in ethics. In fulfilling a job duty of filing documentation of commitment with the court, the licensee fraudulently used a notary stamp and signed the notary's name two separate times when the notary was not available. The licensee self-reported these violations to the Board after employment with the hospital was terminated.

The Licensed Professional Counselors Act, 59 O.S.2011 & Supp.2016, §§ 1901–1920, authorizes the Board to discipline licensed professional counselors who have “[e]ngaged in fraud or deceit in connection with services rendered,” those who have “[e]ngaged in unprofessional conduct as defined by the rules established by the Board,” and those who have “[e]ngaged in negligence or wrongful actions in the performance of his or her duties.” 59 O.S.Supp.2016, § 1912(A)(3),(5),(6). The Board's rules mandate that licensed professional counselors shall not “misuse their influence” or “participate in, condone, or be associated with dishonesty, fraud, deceit, or misrepresentation.” OAC 86:10-3-1. Further, Oklahoma law prohibits a person from acting as notary public, “us[ing] a notary public seal, or perform[ing] any notarial act unless authorized” to perform such acts. 21 O.S.2011, § 1524. The action seeks to hold counselors accountable to legal requirements to not engage in unprofessional or fraudulent conduct.

It is, therefore, the official opinion of the Attorney General that the State Board of Behavioral Health Licensure has adequate support for the conclusion that this action advances the State of Oklahoma's policy that counselors uphold standards of professionalism and meet the minimum standards of the profession.

A handwritten signature in blue ink, appearing to read "E. Scott Pruitt".

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA