



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-54A

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 in response to complaints 16-LPC-91, 16-LPC-37, 16-LPC-38, and 16-LPC-39, which involve licensee 5044. The proposed action is to revoke the license and impose a \$10,000 fine for violations of the Licensed Professional Counselors Act and Board rules.

In the United States District Court for the Western District of Oklahoma, the licensee stipulated to violations of the False Claims Act, 31 U.S.C. §§ 3729–3733, the Oklahoma Medicaid False Claims Act, 63 O.S.2011 & Supp. 2016, §§ 5053–5054, and the Oklahoma Medicaid Program Integrity Act, 56 O.S.2011 & Supp.2016, §§ 1001–1008. Those violations include claims submitted for psychotherapy services rendered by an unqualified person; claims submitted for telemedicine services rendered by unauthorized providers; fraudulent claims submitted for services rendered while the licensee was at a funeral, at a wedding, or on vacations; and fraudulent claims submitted for psychological rehabilitation treatment services which were never rendered to the members.

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 negligence or wrongful actions in the performance of his or her duties;” and those who have “engaged in unprofessional conduct as defined by the rules established by the Board.” 59 O.S.Supp.2016, § 1912(A)(3),(5),(6). The Board’s rules prohibit “participat[ing] in, condon[ing], or be[ing] associated with dishonesty, fraud, deceit or misrepresentation.” OAC 86:10-3-1. Further, conviction of a state or federal statute, if the violation directly relates to the duties and responsibilities of the counselor or if the violation involves moral turpitude, violates the code of professional conduct. *See* OAC 86:10-3-4(a).

Given the gravity of the conviction for fraudulent claims, the Board may reasonably believe it necessary to revoke the license and impose a significant fine to uphold standards of professionalism among counselors and protect the integrity of Oklahoma’s Medicaid program.

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 prohibiting licensed professional counselors from committing fraud when billing for providing counseling services.



E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA