



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2018-12

Chairman Shawn Roberson, Ph.D.
Board of Examiners of Psychologists
421 NW 13th Street, Suite 180
Oklahoma City, OK 73103

October 10, 2018

Dear Chairman Roberson:

This office has received your request for an Official Attorney General Opinion in which you ask, in effect, the following question:

Does Oklahoma law permit a mental health professional who is not a licensed psychologist to describe or title his or her evaluation of a patient's mental health as a "psychological evaluation"?

I.
BACKGROUND

The Psychologists Licensing Act (the "Act") states that "[n]o person shall represent himself or herself as a psychologist or engage in the practice of psychology unless the person is licensed pursuant to the provisions of the Psychologists Licensing Act." 59 O.S.Supp.2017, § 1353. The "practice of psychology" is defined as "the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures[.]" 59 O.S.2011, § 1352(3). The Act vests the State Board of Examiners of Psychologists (the "Board") with the "power and duty to . . . [r]egulate the practice of psychology in this state" and to "[e]xercise all incidental powers and duties which are necessary and proper to effectuate the provisions of the Psychologists Licensing Act." 59 O.S.Supp.2017, § 1352.1(1), (10). The Board is also responsible for "[e]xamin[ing] and issu[ing] licenses pursuant to" the Act. *Id.* § 1352.1(2).¹

¹ The Board describes its mission as "protect[ing] the public by regulating the practice of psychology in Oklahoma to ensure that only properly qualified psychologists practice psychology in the state and that the psychology profession as a whole is conducted in the public's best interest." Oklahoma State Board of Examiners of Psychologists, <https://www.ok.gov/psychology> (last visited Sept. 17, 2018).

The Act explicitly exempts from its requirements certain other professionals that evaluate and treat mental health issues. For instance, Section 1353 of the Act provides, in relevant part, as follows:

The provisions of the Psychologists Licensing Act shall *not* apply to . . . *[q]ualified members of other professions*, including, but not limited to, physicians, licensed social workers, licensed professional counselors, licensed marital and family therapists, or pastoral counselors, *doing work of a psychological nature* consistent with their training and consistent with the code of ethics of their respective professions *provided they do not hold themselves out to the public by any title or description incorporating the word psychological, psychologist, or psychology.*

59 O.S.Supp.2017, § 1353(2) (emphasis added). In other words, while the Act bars anyone but a Board-licensed psychologist from representing himself or herself as a psychologist or engaging in the practice of psychology, other qualified mental health professionals “doing work of a psychological nature” are not subject to the Act *so long as* they do not hold themselves out to the public “by any title or description of services incorporating the words ‘psychology,’ ‘psychological,’ or ‘psychologist[.]’” See A.G. Opin. 1987-81, at 146.

II. DISCUSSION

In light of the exemption found in Section 1353(2) of the Act, you ask whether a mental health professional who is not a Board-licensed psychologist may describe or title a patient’s mental health evaluation as a “psychological evaluation.”² The answer to this question can be found in the plain language of the Act. See *Jobe v. State ex rel. Dep’t of Pub. Safety*, 2010 OK 50, ¶ 13, 243 P.3d 1171, 1175 (“If a statute is plain and unambiguous, it will not be subjected to judicial construction, but will receive the effect its language dictates.”). The mental health professionals listed in Section 1353(2) are exempt from the Act *only* so long as they do not “hold themselves out to the public by any title or description incorporating the word psychological[.]” 59 O.S.Supp.2017, § 1353(2). A mental health professional who titles or otherwise describes a patient evaluation as a “psychological evaluation” would be describing the services provided using words expressly prohibited by the Legislature. If that evaluation is made available to persons other than the author,³ such conduct would fall outside the exemption and thus violate the Act’s prohibition on unlicensed persons “representing [themselves] as a psychologist or engag[ing] in the practice of psychology.” *Id.* § 1353.⁴ Such a violation may result in criminal or civil penalties. 59 O.S.2011, §§ 1373-74.

² For the purposes of this opinion, the outcome is the same whether the evaluation is “titled” or otherwise “described” as a “psychological evaluation.” Under its plain meaning in this context, a “title” is simply another way of describing the evaluation. See WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 2400 (3d ed. 2002) (defining “title” as “a descriptive or general heading”), *id.* at 610 (defining “describe” as “to represent by words written or spoken for the knowing or understanding of others” or “to distinguish by a definitive label”).

³ This does not include internal notes or other descriptions intended for use solely by the mental health professional having conducted the evaluation because such documents would *not* be available to the public.

⁴ In Attorney General Opinion 1987-81, this office similarly concluded that Section 1353 clearly expressed that “a non-licensed person may not hold himself out to the public by a title or description of services incorporating the words ‘psychology,’ ‘psychological,’ or ‘psychologist.’” A.G. Opin. 1987-81, at 147. However, since “[t]he Act

It is, therefore, the official Opinion of the Attorney General that:

A mental health professional who is not a licensed psychologist is prohibited by 59 O.S.Supp.2017, § 1353 from describing or titling his or her evaluation of a patient’s mental health as a “psychological evaluation,” unless the evaluation is intended solely for the internal use of the author.



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says nothing about modifications of the word ‘psychology’ . . . [t]he plain and unambiguous language of the Act indicates the prohibition applies only to the three words expressly mentioned in the Act and not to modifications of these words.” *Id.* Thus, a qualified professional is prohibited only from using the specific words “psychological, psychologist, or psychology” in the title or description of an evaluation.