

## SUBCHAPTER 31. ENFORCEMENT

### Section

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### **310:403-31-1. Purpose**

The purpose of this subchapter is to specify the procedure of processing of complaints and the filing of disciplinary actions against LBPs or against persons who practice behavioral health services without a license or exemption.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]

### **310:403-31-2. Complaints**

- (a) Any person may make a complaint against an LBP or a person practicing behavioral health services. A person wishing to report a complaint or alleged violation against a licensee or person practicing behavioral health services may notify the Department in writing, by telephone, or by a personal visit.
- (b) The Department will determine whether the complaint alleges a possible violation of the Act or this Chapter. The Department may present the complaint to the Advisory Board for consultation.
- (c) LBPs are encouraged to file complaints when they have knowledge of other LBPs who have violated the LBP Act or OAC 310:403.
- (d) The complaint and the identity of the complainant shall be confidential and shall not be available for public inspection.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]

### **310:403-31-3. Investigation**

If the Department determines a possible violation of the Act or this Chapter has occurred, the Department may commence an investigation of the complaint.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]

### **310:403-31-4. Filing an action**

- (a) The Department may begin a disciplinary action against an LBP or a person practicing behavioral health services who is not exempt from licensure by following the procedures in Chapter 2 of this Title. The Department shall request the appropriate remedy. In making its recommendation, the Department may seek the counsel of the Advisory Board. Remedies include revocation of a license, suspension of a license, probation of a licensee and administrative penalty.
- (b) If in the course of an investigation the Department determines that a licensee or candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm, the Commissioner may order a summary suspension of the counselor's license or authorization to conduct behavioral health

services, behavioral treatment interventions, and/or consulting. A presumption of imminent harm to the public shall exist if the Department determines that probable cause exists that a licensee or candidate has violated 310:403-7-4 or 310:403-7-6(d).

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01; Amended at 21 Ok Reg 2747, eff 7-12-2004]

#### **310:403-31-5. Hearing**

Hearings shall be conducted by the Commissioner of Health or his designee as specified in Chapter 2 of this Title (310:2). The Department shall recommend the most appropriate penalty at the conclusion of the evidence.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]

#### **310:403-31-6. Final order**

The Department, either by order of the Commissioner or an Administrative Law Judge, shall issue a final order on all disciplinary matters. Final orders are appealable under the Administrative Procedures Act to the district courts.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]

#### **310:403-31-7. Unauthorized practice**

Any person found to be practicing behavioral health services without being either properly licensed, exempt or under the approved supervision of an LBP as part of the licensure process shall be ordered to cease practicing and may be subject to an administrative penalty. The Department may seek the assistance of the courts if the actions continue.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]

#### **310:403-31-8. Administrative penalties**

(a) The Department may assess an administrative penalty against an individual if the order includes a finding that the individual:

- (1) Violated any provision of the Act, including practicing behavioral health services without licensure or exemption; or
- (2) Violated any rule within this Chapter; or
- (3) Violated any order issued pursuant to this Chapter.

(b) The total amount of the administrative penalty assessed shall not exceed ten thousand dollars (\$10,000.00) for any related series of violations.

[Source: Added at 18 Ok Reg 651, eff 1-10-2001(emergency); Added at 18 Ok Reg 1699, eff 5-25-01]