

SUBCHAPTER 31. ENFORCEMENT

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310:405-31-1. Purpose

The purpose of this subchapter is to specify the administration of complaints and the filing of disciplinary actions against LPCs or against persons who practice counseling without a license or exemption.

[Source: Added at 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99]

310:405-31-2. Complaints

(a) Any person may file a complaint against an LPC or a person practicing counseling. A person wishing to report a complaint or alleged violation against a licensee or person practicing counseling may notify the Department in writing, by telephone, or by a personal visit. 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.

(b) The complaint and the identity of the complainant shall be confidential and shall not be available for public inspection.

[Source: Added at 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99; Amended at 17 Ok Reg 2935, eff 7-13-00]

310:405-31-3. Investigation

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

[Source: Added at 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99]

310:405-31-4. Filing of an action

(a) The Department may begin a disciplinary action against an LPC or a person practicing counseling who is not exempt from licensure by following the procedures in Chapter 2 of this Title. The Department shall specifically state the violation(s) and shall request the appropriate remedy. 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 counseling, counseling 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 310:405-3-3(c) or 310:405-3-4(a,b,c or e).

[Source: Added at 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99; Amended at 21 Ok Reg 2750, eff 7-12-2004]

310:405-31-5. 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. In making its recommendation, the Department may seek the counsel of the Advisory Board.

[Source: Added at 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99]

310:405-31-6. 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 13 Ok Reg 2495, eff 6-27-96]

310:405-31-7. Unauthorized practice

Any person found to be practicing counseling without being either properly licensed, exempt or under the approved supervision of an LPC 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 13 Ok Reg 2495, eff 6-27-96]

310:405-31-8. 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 counseling 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 13 Ok Reg 2495, eff 6-27-96; Amended at 16 Ok Reg 2499, eff 6-25-99]