



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2017-695A

Amy Hall, Executive Secretary
Board of Examiners for Speech-Language
Pathology and Audiology
P.O. Box 53592
Oklahoma City, OK 73152

September 21, 2017

Dear Executive Secretary Hall:

This office has received your request for a written Attorney General Opinion regarding agency action that the Board of Examiners for Speech-Language Pathology and Audiology intends to take pursuant to a Final Order against licensee number 205 in Case No. 16-04. The proposed action is to impose a fine against the licensee in the amount of \$42.50 for a continuing education audit; impose a fine against the licensee in the amount of \$50 for the late submission of the affidavit required to be provided under the Consent Agreement and Order; apply all continuing education completed by the licensee prior to August 25, 2017 to satisfy the Consent Agreement and Order, but not allow continuing education completed by the licensee prior to August 25, 2017 to satisfy the continuing education requirements for 2017-2018; and to require the licensee's continuing education to satisfy 2017-2018 to be audited by the Board.

The licensee is a licensed audiologist. A Complaint was filed against the licensee in Case No. 16-04 alleging that the licensee practiced with an expired license in an exempt setting on January 2 and 5, 2016. On October 14, 2016, the Board approved a Consent Order and Agreement to resolve Case No. 16-04. The Consent Order was considered and approved by Attorney General Opinion 2016-660A. Paragraph 2 of the Consent Order required an audit of the licensee's continuing education for the time period of January 1, 2015 to December 31, 2016, to ensure compliance with the continuing education requirements. The audit revealed that the licensee lacked 10 hours of continuing education, of which at least two hours were required to be ethics. Paragraph 2 of the Consent Order provided that "an audit result indicating that [the licensee] was not compliant with the continuing education rules [would] constitute a failure to comply with the terms of [the Consent Order]." Paragraph 4 of the Consent Order required the licensee to submit to the Board, by January 1, 2017, a notarized statement signed by the licensee's employer attesting as to whether charges were billed or payments were received for the services provided by the licensee while the licensee's license was expired. The notarized statement was not timely submitted.

The Speech-Language Pathology and Audiology Licensing Act, 59 O.S.2011 & Supp.2016, §§ 1601–1622, gives the Board the power and duty to "regulate the practice of speech-language pathology and audiology in this state[.]" 59 O.S.2011, § 1610(A)(1). To that end, the Act gives the

Board the power to “issue . . . licenses,” renew licenses, “[c]ontinue in effect, suspend, revoke, modify or deny . . . licenses” and prescribe “conditions . . . [on] licenses for the practice of speech pathology and audiology in this state.” *Id.* §§ 1610(A)(2), (3); 1616(B). The Act also gives the Board the authority to discipline licensees that violate the provisions of the Act or any rules promulgated by the Board. *See id.* §1619(A); 59 O.S.Supp.2016, § 1610(A)(3),(6),(11). The disciplinary actions the Board may impose against licensees that violate the Act or Board rules include “suspend[ing] or revoke[ing] a license, issu[ing] a letter of reprimand, impos[ing] probationary conditions, impos[ing] . . . administrative fine[s] not to exceed . . . \$10,000, and assess[ing] reasonable costs.” 59 O.S.Supp.2016, § 1619(A). The Board rules specifically provide that “[a] licensee must obtain a minimum of twenty (20) clock hours of acceptable continuing education, including at least three clock hours of professional ethics in a two-year period.” OAC 690:10-3-8(b); *see also* OAC 690:10-3-8(j)(2), (j)(4). In this case, the Consent Order imposed conditions prescribed by the Board on the licensee’s license. The licensee did not timely comply with said conditions. Therefore, the Board may reasonably believe that its proposed disciplinary action is necessary to deter future violations and to ensure future compliance with its lawfully issued Orders.

It is, therefore, the official opinion of the Attorney General that the Board of Examiners for Speech-Language Pathology and Audiology has adequate support for the conclusion that this action advances the State of Oklahoma’s policy to protect the public health, safety and welfare.



MIKE HUNTER
ATTORNEY GENERAL OF OKLAHOMA



RYAN CHAFFIN
DEPUTY CHIEF – ASSISTANT ATTORNEY GENERAL