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To: Ms. Raelene Lundin
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From: Farra Mughal
Louisiana Department of Justice
Occupational Licensing Review Program

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Subject: Louisiana Licensed Professional Counselors Board of Examiners
Proposed Amendment to LAC 46:LX.103, 105, 107, 109, and 111
Chapter 1-General Provisions

I. SUMMARY

The Louisiana Licensed Professional Counselors Board of Examiners (the “**Board**”) proposes amending LAC 46:LX.103, 105, 107, 109, and 111 (the “**Proposed Amendments**”), relative to the rules governing the appointment of Board members, reimbursements of their expenses, and notification requirements for licensees to report any arrest, charges, or convictions. The Proposed Amendments reduce repetitive and outdated language throughout Chapter 1 and repeal sections that duplicate provisions already established in statutes.

The Board published a Notice of Intent to promulgate the Proposed Amendments on November 20, 2025.¹ The Notice invited public comment through February 13, 2026, and no comments were received.²

Pursuant to La. R.S. 49:260, the Board submitted the Proposed Amendments to the Louisiana Department of Justice’s Occupational Licensing Review Program (“**OLRP**”) on February 27, 2026. The OLRP invited public comments on the Proposed Amendments March 3, 2026 through March 16, 2026 and received no comments.

The OLRP has the statutory authority to review the substance of each proposed occupational regulation submitted to ensure compliance with clearly articulated state policy and adherence to applicable state law.³ An Occupational Regulation is a “rule defined in the Administrative Procedure Act (“**APA**”) that has reasonably foreseeable anti-competitive effects. Any license, permit, or regulation established by a ... board not composed of a controlling number of active

¹ Louisiana Register Vol. 51, No.11 pg. 1929-1930

² Id. at 130

³ LSA-R.S. 49:260 (D)(2)

market participants is excluded.”⁴ Anti-Competitive behavior is an act, or series of acts, that have the effect of harming the market or the process of competition among businesses, or a tendency to reduce or eliminate competition, with no legitimate business purpose.⁵

The Louisiana APA defines a rule as any agency statement, guide, or requirement of general applicability that implements or interprets substantive law or policy, or that prescribes agency procedures or practices, excluding statements governing only internal agency management, declaratory rulings or orders, and provisions adopting, increasing, or decreasing fees.⁶ The term includes provisions establishing fines, penalties, preferential status, or licensure or certification criteria, as well as the amendment of an existing rule. A rule may be generally applicable, even if it applies only to an identifiable class or a limited geographical area.

As set forth below, the OLRP has determined the Board’s Proposed Amendments merely reduces repetitive and outdated language and therefore do not constitute occupational regulations with anticompetitive effects within the meaning of La. R.S. 49:260. Accordingly, the Board may promulgate the Proposed Amendments without further input from the OLRP.

II. ANALYSIS

Act 892 of the 1987 Louisiana Legislature created the Louisiana Licensed Professional Counselors Board of Examiners to provide regulation of the practice of mental health counseling and provide for the regulation of the use of the title of “licensed professional counselor.”⁷ Pursuant to the Louisiana Mental Health Counselor Licensing Act (“*LMHCLA*”)⁸, it is the policy of the State of Louisiana that licensed professional counselors or provisional licensed professional counselors be regulated for the protection of public health, safety, and welfare⁹ by the Louisiana Licensed Professional Counselors Board of Examiners. The Board is responsible for developing rules and regulations in accordance with the Administrative Procedure Act as deemed necessary to implement the provisions of the *LMHCLA*.¹⁰

A. Proposed Amendment LAC 46:LX.103, 105, 107, and 109

The Board proposes these amendments to repeal provisions relating to the Board’s composition, vacancies, reimbursement, and financial structure that are already governed by statute. The changes eliminate redundant regulatory language without altering substantive requirements. The Board asserts that the Proposed Amendments intend to remove redundant language that duplicates provisions already established in statute.

The Board has the statutory authority to develop rules and regulations in accordance with the Administrative Procedure Act as deemed necessary to implement the provisions of the

⁴ LSA-R.S. 49:260 (G)(4)

⁵ Black’s Law Dictionary, 12th Edition p. 116

⁶ LSA-R.S. 49:951 (8)

⁷ LAC 46: LX.101, LA R.S. 37:1102

⁸ LA-R.S. 37:1101 et. seq.

⁹ LA-R.S. 37:1104 (B)(2)(c)(i)

¹⁰LA-R.S. 37:1105(D)

LMHCLA.¹¹ As such, the Board has the authority to amend its rules to remove language that is duplicated in statute.

Because these amendments are administrative in nature and do not impact regulated individuals or market participation, they do not constitute occupational regulations under La. R.S. 49:260. The Proposed Amendments do not restrict entry into the profession or occupation, limit competition, reduce consumer choice, or create barriers to market participation. As such there are no reasonably foreseeable anticompetitive effects. Therefore, the Board may proceed with promulgation in accordance with the Louisiana APA without further input from the OLRP.

B. Proposed Amendment LAC 46:LX.111(B)- Notification of Change

The Board proposes amending §111 to add that “every licensed or provisional licensed marriage and family therapist” must notify the Board in writing of any arrest, charges, and convictions. Currently, the rule only states that “every licensed or provisional licensed professional counselor” must notify the Board.

Act 1195 of 2001 empowered the Board to provide regulation of marriage and family therapy and the use of the title "licensed marriage and family therapist."¹² Additionally, Act 484 of the 2014 Legislative Session empowered the Board to provide regulation of the practice and use of the titles “provisional licensed professional counselor” and “provisional licensed marriage and family therapist.”

The Board has the statutory authority to develop rules and regulations in accordance with the Administrative Procedure Act as deemed necessary to implement the provisions of the LMHCLA.¹³ As such, the Board has the statutory authority to amend its rules to reflect its authority to require licensed and provisional licensed marriage and family therapists to notify the Board of any arrest, charges, or convictions.

While the Board has the statutory authority to regulate licensed and provisional licensed marriage and family therapists, the Proposed Amendment does not establish, modify, or eliminate licensure qualifications, scope of practice requirements, fees, renewal standards, disciplinary criteria, or enforcement thresholds applicable to regulated individuals or entities. Thus, the Proposed Amendment does not constitute an occupational regulation as defined by La. R.S. 49:260 and is a rule governing the practice of counselling.

There are no reasonably foreseeable anticompetitive effects, as the Proposed Amendment does not limit competition, reduce consumer choice, or create barriers to market participation. Therefore, the Board may proceed with the promulgation of the Proposed Amendment in accordance with the Louisiana APA without further input from the OLRP.

¹¹ LA-R.S. 37:1104 (B)(2)(c)(i)

¹² LA R.S. R.S. 37:1102(B)

¹³ LA R.S. 37:1104 (B)(2)(c)(i)

III. DETERMINATION

The Board is a state regulatory body created to provide regulation of the practice of mental health counseling by licensed professional counselors.¹⁴ The Board holds the statutory authority to adopt rules and regulations as deemed necessary and to establish the requirements, qualifications, and formalities to obtain such license for the protection of the health and welfare of the residents of the state.¹⁵ The Proposed Amendments remove duplicative language and clarify the application of an existing reporting requirement. The amendments do not affect licensure, scope of practice, disciplinary standards, or market participation. Because the Proposed Amendments do not create or modify occupational regulations with reasonably foreseeable anticompetitive effects, they do not fall within the scope of review for OLRP pursuant to La. R.S. 49:260. Accordingly, the Board may proceed with promulgation of the Proposed Amendments in accordance with the Louisiana APA without further input from the OLRP.

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM



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¹⁴ LAC 47:LX.101

¹⁵ LA R.S. 37:1105(D) and LA R.37:1107(G)(2)