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

Date: April 21, 2026

Subject: Louisiana Licensed Professional Counselors Board of Examiners
Proposed Amendment to LAC 46:LX. 305, 307, 309, 311, 313, and 315
Chapter 3- Board Meetings, Procedures, Records, Powers, and Duties

I. SUMMARY

The Louisiana Licensed Professional Counselors Board of Examiners (the “**Board**”) proposes amending LAC 46:LX. 305, 307, 309, 311, 313, and 315 (the “**Proposed Amendments**”), relative to Board members, Board staff, meeting procedures, and ethics. The Proposed Amendments repeals 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 market participants is excluded.”⁴ Anti-Competitive behavior is an act, or series of acts, that have

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

² Id. at 1930

³ LSA-R.S. 49:260 (D)(2)

⁴ LSA-R.S. 49:260 (G)(4)

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

The Board proposes repealing from its rules §305, 307, 309, 311, 313, and 315. The Proposed Amendments eliminate rules relative to the Board's (i) meetings, (ii) staff, (iii) quorum, (iv) procedures, (v) code of ethics, and (vii) recordings of meeting. However, these requirements will remain codified in LA-R.S. 37:1101 et. seq.

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

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)

¹⁰ LA-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.

While the Board has the statutory authority to develop rules and regulations, the Proposed Amendments merely remove from its rules language that may be found in statute and 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 Amendments do not constitute an occupational regulation as defined by La. R.S. 49:260 and does not restrict entry into the profession or occupation. There are no reasonably foreseeable anticompetitive effects, as the Proposed Amendments do not limit competition, reduce consumer choice, or create barriers to market participation.

Therefore, the Board may proceed with promulgation of the Proposed Amendments in accordance with the Louisiana APA without further input from the OLRP.

III. DETERMINATION

The Board is a state regulatory body created to provide regulation of the practice of mental health counseling by licensed professional counselors.¹² The Board holds the statutory authority to adopt rules, regulations, and examination procedures 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.¹³ However, the Proposed Amendments do not constitute occupational regulations with reasonably foreseeable anticompetitive effects within the meaning of La R.S. 49:260. Therefore, the Board may proceed with promulgation of the Proposed Amendments in accordance with the Louisiana APA without further input from the OLRP.

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¹¹ LA-R.S. 37:1104 (B)(2)(c)(i)

¹² LAC 47:LX.101

¹³ LA-R.S. 37:1105(D) and LA R.37:1107(G)(2)