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To: Ms. Raelene Lundin
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From: Jessica Weimer
Louisiana Department of Justice
Occupational Licensing Review Program

Date: November 8, 2024

Subject: Louisiana Licensed Professional Counselors Board of Examiners
Proposed Amendment to LAC 46:LX.603.
Licensed Professional Counselors Licensing Requirements- Ethics

I. SUMMARY

The Louisiana Licensed Professional Counselors Board of Examiners (the “**Board**”) proposes amending LAC 46:LX.603 (the “**Proposed Amendment**”), regulating the licensing requirements for Licensed Professional Counselors.¹ The Proposed Amendment states that a course must cover the most recent edition of ethical standards as published by the American Counseling Association, state counselor licensure boards, and national certifying agencies in order to meet the requirements for the provisional licensure of a professional counselor. Currently, an applicant for a provisional license must complete at least one three-hour course covering the ethical standards of the American Counseling Association, state counselor licensure boards, and national counselor certifying agencies, which may allow for potentially outdated standards.

The Board published a Notice of Intent to promulgate the Proposed Amendment on August 20, 2024.² The Notice invited public comments on these Proposed Amendment until September 10, 2024 and received none.³

Licensing requirements create barriers to market entry for individuals desiring to engage in a profession or occupation, and the Proposed Amendment to §603 is therefore properly considered an occupational regulation with reasonably foreseeable anti-competitive effects.⁴

¹ Louisiana Register, Vol. 50, No 8 at pgs 1180-1181

² Id.

³ Id. at 1181.

⁴ La. R.S. 49:260 G(4)

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 September 24, 2024. The OLRP invited public comments on the Proposed Amendment October 7, 2024 through October 21, 2024 and received no comments. As set forth below, the OLRP has determined the Board’s Proposed Amendment to LAC 46:LX §603 adheres to clearly articulated state policy and therefore approves this amendment for adoption as drafted.

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.”⁵ Pursuant to the Louisiana Mental Health Counselor Licensing Act (“*the LMHCLA*”)⁶, 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 welfare⁷ 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.⁸ As such, the Board shall adopt such rules, regulations, and examination procedures, as well as the Code of Ethics of the American Counseling Association, including any revisions or additions deemed appropriate or necessary by the board.⁹ Further, the Board “shall adopt rules and regulations in accordance with the Administrative Procedure Act establishing the necessary qualifications, requirements, and formalities for the issuance of licenses as are necessary for the adequate protection of the health and welfare of the residents of this state.”¹⁰

A. Proposed LAC 46:LX.603

The board proposes amending LAC 46:LX.603 to require applicants for a provisional licensed counselor take a course covering the most recent edition of the ethical standards published by the American Counselor Association, state licensure boards, and national counselor certifying agencies. The rules currently require a three-hour course covering ethics and professional orientation, including the ethical standards of the American Counselor Association, state licensure boards, and national counselor certifying agencies.

In accordance with the LMCHA, the Board is responsible for developing rules, regulations, and examinations for licensed professional counselors¹¹ for the protection of public health, safety, and welfare.¹² Requiring a course covering the most recent ethical standards coincides

⁵ LAC 46: LX.101, LA R.S. 37:1102

⁶ LA R.S. 37:1101 et. seq.

⁷ LA R.S. 37:1102

⁸ LA R.S. 37:1104 (B)(2)(c)(i)

⁹ LA R.S. 37:1105(D)

¹⁰ LA R.S. 37:1107 (G)(2)

¹¹ Id

¹² LA R.S. 37:1102

with the current rule regarding the ethics and mental health diagnosis requirements for the continuing education of Licensed Professional Counselors.¹³ Requiring the most recent ethical standards, rather than allowing older versions of the standards, protects the public health, safety, and welfare from potential harmful practices of licensed professional counselors. Thus, the Proposed Amendment aligns with clearly articulated state policy and is within the Board's aforementioned discretionary powers.

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, 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.¹⁵ Because the Proposed Amendment is within the Board's statutory authority and adheres to clearly articulated state policy, these amendment is approved as submitted by the Attorney General and may be adopted by the board.

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM



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¹³ LAC 46:LX.611

¹⁴ LAC 47:LX.101

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