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To: Mr. Arthur Hickham
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From: Farra Mughal
Louisiana Department of Justice
Occupational Licensing Review Program

Date: September 17, 2026

Subject: Louisiana State Board of Dentistry
Proposed Amendments to LAC 46:XXXIII.501 and 502- Dental Assistants

I. SUMMARY

The Louisiana State Board of Dentistry (the “**Board**”) proposes amending LAC 46:XXXIII.501 and 502 (the “**Proposed Amendments**”), to expand the authorized duties that dental assistants and expanded duty dental assistants may perform to include certain non-invasive, non-intraoral, reversible procedures under the direct supervision of a licensed dentist.

The Board published a Notice of Intent to promulgate the Proposed Amendments on June 20, 2026.¹ The Notice invited public comments on the Proposed Amendments through July 10, 2026, and the Board received no written or oral public comments.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 August 7, 2026. The OLRP invited public comments on the Proposed Amendments August 7, 2026 through August 21, 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 (the “**APA**”) that has reasonably foreseeable anticompetitive effects. Any license, permit, or regulation established by a ... board not composed of a controlling number of active market participants is excluded.”⁴ Anticompetitive behavior is an act, or series of acts, that have the effect

¹ Louisiana Register, Vol. 52, No. 6, at pgs. 1044-1045

² Id. at 1045

³ LSA-R.S. 49:260 (D)(2)

⁴ LSA-R.S. 49:260 (G)(4)

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 Proposed Amendments to §§ 501 and 502 do not constitute occupational regulations with any reasonably foreseeable anticompetitive effects. Therefore, the Board may proceed with promulgation as drafted in accordance with the Louisiana APA without further input from the OLRP.

II. ANALYSIS

The Dental Practice Act, La. R.S. 37:751 *et seq.* (the “**Act**”), authorizes the Board to regulate the practice of licensed dentists and dental hygienists by establishing acts, services, procedures, and practices that may be performed and by imposing requirements and restrictions it considers proper and necessary to protect and promote the public health and welfare of the citizens of Louisiana.⁷

A. Proposed LAC 46:XXXIII.501 and 502

The Board proposes amending §§ 501 and 502 to add authorizations for dental assistants and expanded duty dental assistants to perform certain non-invasive, non-intraoral, reversible procedures under the direct supervision of a licensed dentist, provided the procedures do not penetrate the skin or mucosa and both the assistant and supervising dentist have received adequate formal training.

The Board asserts that the current rules were written before many of these therapies became common in dental practice and do not clearly address them.

Dental assistants and expanded duty dental assistants are persons employed by a licensed practicing dentist who may perform duties authorized by the Board under the direct on-premises supervision, direction, and responsibility of the dentist.⁸

Although the Board does not regulate dental assistants, it establishes by rule the duties, procedures, and education requirements applicable to dental assistants and issues certificate confirmations for expanded duty dental assistants.⁹ Dental assistants are not independently licensed by the Board.

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

⁶ LSA-R.S. 49:951 (8)

⁷ LSA-R.S. 37:760 (A)(8)

⁸ LSA-R.S. 37:792.1(A)-(B)

⁹ [Louisiana State Board of Dentistry - Dental Assisting](#)

Expanded duty dental assistants, however, must satisfy the statutory qualifications set forth, and the Board may certify or recertify expanded duty dental assistants as provided by law.¹⁰

The Board is authorized to promulgate rules and regulations regarding the dental procedures that may be appropriately delegated by the dentist to dental assistants and expanded duty dental assistants, including determining which delegated dental procedures require competency testing before a person may perform the procedure and establishing training requirements.¹¹ Accordingly, it is within the Board's authority to authorize dental assistants and expanded duty dental assistants to perform certain non-invasive, non-intraoral, reversible procedures under the direct supervision of a licensed dentist, provided the procedures are performed under the specified conditions.

The Proposed Amendments expand the procedures dental assistants and expanded duty dental assistants may perform, subject to the stated supervision and training requirements, and do not appear to restrict market entry, reduce consumer choice, limit competition, or otherwise have reasonably foreseeable anticompetitive effects. Accordingly, although the Proposed Amendments constitute rules under the APA, they do not have reasonably foreseeable anticompetitive effects and therefore do not constitute occupational regulations as defined by La. R.S. 49:260. Therefore, the Board may proceed with amending §§ 501 and 502 in accordance with the Louisiana APA without further input from the OLRP.

III. DETERMINATION

The Board is the state regulatory body granted the discretion to impose such requirements and restrictions it considers proper and necessary to protect and promote the public health and welfare of the citizens of Louisiana.¹² The Board is authorized to promulgate rules and regulations regarding the dental procedures that may be appropriately delegated by the dentist to dental assistants and expanded duty dental assistants, including determining which delegated dental procedures require competency testing before a person may perform the procedure and establishing training requirements.¹³ Because the Proposed Amendments to §§ 501 and 502 are within the Board's statutory authority and do not have any reasonably foreseeable anticompetitive effects, they do not constitute occupational regulations as defined by La. R.S. 49:260. Accordingly, the Board may proceed with promulgation of these amendments without further input from the OLRP.

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM



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¹⁰ LSA-R.S. 37:751(A)(7)

¹¹ LSA-R.S. 37:792.1 (D)

¹² LSA-R.S. 37:760 (A)(8)

¹³ LSA-R.S. 37:792.1 (D)