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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 22, 2024

Subject: Louisiana Licensed Professional Counselors Board of Examiners
Proposed Amendments to LAC 46:LX.3315, 3501, 3503
Licensed Professional Counselors – Continuing Education for Provision Licensed
Marriage and Family Therapists and Licensed Marriage and Family Therapists

I. SUMMARY

The Louisiana Licensed Professional Counselors Board of Examiners (the “**Board**”) proposes amending LAC 46:LX.3315, 3501, and 3503 (the “**Proposed Amendments**”), regulating the licensing requirements for Provisional Licensed Marriage and Family Therapists (“**PLMFT**”) and Licensed Marriage and Family Therapists (“**LMFT**”).¹ The Proposed Amendments

- (i) Allow for additional preapproval of continuing education hours by the Louisiana Counseling Association (“**LCA**”);
- (ii) Add peer consultation as a mode of accruing continuing education hours for LMFTs and PLMFTs to make it consistent with the rules permitted for Licensed Professional Counselors (“**LPC**”) and Provisional Licensed Professional Counselors (“**PLPC**”);
- (iii) Allow for the continuing education hours count for three hours per one hour presentation for LMFTs and PLMFTs;
- (iv) Include technical revisions made to provide clarity on the definition of continuing education and the requirement for that information to be submitted via email rather than online to the Board; and
- (v) Make consistent the number of continuing education hours that may be accrued through peer consultations and original presentations for LPCs, PLPCs, LMFTs, and PLMFTs.

¹ Louisiana Register, Vol. 50, No 9 at pgs 1359-1362

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

Licensing and continuing education (“*CE*”) requirements create barriers to market entry for individuals desiring to engage in a profession or occupation, and the Proposed Amendments to §3315, 3501, and 3503 are therefore properly considered occupational regulations with reasonably foreseeable anti-competitive effects.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 October 22, 2024. The OLRP invited public comments on the Proposed Amendments October 23, 2024 through November 6, 2024 and received no comments. As set forth below, the OLRP has determined the Board’s Proposed Amendments to LAC 46:LX §3315, 3501, and 3503 adhere to clearly articulated state policy and therefore approves the Proposed Amendments 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 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.”⁹

A. Proposed Amendment to §3315 Regarding Application Practice, and Renewal Requirements for PLMFT

Currently, the a PLMFT must accrue one and a half clock hours in diagnosis under the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DMS 5). The Board proposes requiring the most recent edition of DMS be required for the CE requirement. Further,

² Id.

³ Id. at 1361

⁴ La. R.S. 49:260 G(4)

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. 37:1107 (G)(2)

the rules currently state a provisional license period runs every two years from November 1 to October 31. The Board proposes amending this rule to state, “The renewal period is November 1 to October 31.” The Board also proposes removing the purpose of CE requirements from §3315 E.2.a which states “Continuing Education requirements are meant to encourage personal and professional development through the licensee’s career. For this reason, a wide range of options are offered to accommodate the diversity of licensees’ training, experience and geographic location.” The Board further proposes adding workshops and presentations approved by the LCA into the list accepted for CE and specifies the presentations must be original and may count for up to 10 hours maximum at a rate of three hours per one hour presentation, wherein the rule currently allows for the CE to count at a rate of two hours per one hour presentation. Additionally, the Board proposes the addition of Peer Consultation, for 10 hours maximum per renewal period, as an optional way to obtain CE. Lastly, the Board proposes amending the types of documentation required for a CE audit by (i) removing “*copy of article plus the table of contents of the journal it appears in, copy of chapter plus table of contents for chapter authored for books, title page and table of contents for authoring or editing books, letter from conference coordinator or journal editor for reviewing refereed workshop presentation or journal articles*” from the list and clarifying this requirement is for authoring, editing, or reviewing professional manuscripts or presentations in the area of marriage and family therapy in §3315(F) (4) and (ii) adding a completed peer supervision form.

In accordance with the LMHCLA, the Board is responsible for developing rules, regulations, and examinations for licensed professional counselors¹⁰ for the protection of public health, safety, and welfare.¹¹ Further, the Board is directed by the Legislature to “establish regulatory structure and procedures that will ensure the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of marriage and family therapy.”¹² Requiring continuing education to cover the most recent editions of Diagnostic and Statistical Manual and Mental Disorders and LCA approval of workshops and presentations protects the public health, safety, and welfare from potential harmful practices of licensed professional counselors by ensuring each LMFT and PLMFT is not practicing or following out of date standards and is able to accurately diagnose, assess, and treat the individual client properly. Thus, the Proposed Amendments align with clearly articulated state policy and are within the Board’s aforementioned discretionary powers.

B. Proposed Amendment to LAC §3501 Regarding Renewal for Licensed Marriage and Family Therapists- General Provisions

Currently §3501 requires a licensee to submit an application form and payment of the renewal fee every two years and renewals must be postmarked no later than December 31. The Board proposes removing the December 31 postmark requirement. An Occupational Regulation is a “rule defined in the Administrative Procedure Act that has reasonably foreseeable anti-competitive effects. Any license, permit, or regulation established by a ... board not composed

¹⁰ LA R.S. 37:1107 (G)(2)

¹¹ LA R.S. 37:1102

¹² LA R.S. 37:1102 (B)

of a controlling number of active market participants is excluded.”¹³ The Louisiana Administrative Procedure Act (“*APA*”) defines a rule as an agency (Board) requirement for conduct or action prescribing the procedure or practice requirements of the agency (Board).¹⁴ 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.¹⁵ The Proposed Amendment is not an occupational regulation with reasonably foreseeable anti-competitive effects, and thus does not require input from the OLRP. Therefore, the Board may proceed with promulgation of these amendments in accordance with the Louisiana APA.

C. Proposed Amendment to LAC §3503 Regarding Continuing Education Requirements for the Renewal of License for LMFT

The Board proposes amending §3503 to mirror the amendments made in §3315 regarding the (i) requirement of training found in the most recent addition of the *Diagnostic and Statistical Manual of Mental Disorders*, (ii) types of documentation needed for CE audit, (iii) approved CE Peer Consultation requirements, (iv) optional ways to obtain CE, including the addition of peer consultation requirements and allowances and original presentations at workshops, etc. to count for up to 10 hours maximum at a rate of three clock hours per one hour presentation.

In accordance with the LMCHA, the Board is responsible for developing rules, regulations, and examinations for licensed professional counselors¹⁶ for the protection of public health, safety, and welfare.¹⁷ Further, the Board is directed by the Legislature to “establish regulatory structure and procedures that will ensure the public is protected from the unprofessional, improper, unauthorized, and unqualified practice of marriage and family therapy.”¹⁸ As stated above, these requirements ensure the LMFT is educated with up to date standards for diagnosis and assessment and ensures the LMFT is qualified to treat the client properly and professionally. Thus, the Proposed Amendments align with clearly articulated state policy and are within the Board’s aforementioned discretionary powers.

The Board also proposes amending §3503 to clarify the licensure and renewal periods and the procedure for notification of a license audit. These amendments are ministerial and have no effect as to alter the intent or substantive meaning of the existing regulations. The Proposed Amendments clarifying the accrual period of CE and notification of license audits are not occupational regulations with reasonably foreseeable anti-competitive effects, and thus do not require input from the OLRP. Therefore, the Board may proceed with promulgation of these amendments in accordance with the Louisiana APA.

¹³ LSA-R.S. 49:260 (G) (4)

¹⁴ LSA-R.S. 49:951 (8)

¹⁵ Black’s Law Dictionary, 12th Edition p. 116

¹⁶ LA R.S. 37:1107 (G)(2)

¹⁷ LA R.S. 37:1102

¹⁸ LA R.S. 37:1102 (B)

Determination

The Board is a state regulatory body created to provide regulation of the practice of mental health counseling by licensed professional counselors.¹⁹The 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.²⁰ Because the Proposed Amendments are within the Board's statutory authority and adhere to clearly articulated state policy, these amendments are approved as submitted by the Attorney General and may be adopted by the Board.

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¹⁹ LAC 47:LX.101

²⁰ LA R.S. 37:1105(D) and LA R.37:1107(G)(2)