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To: Mr. Arthur F. Hickham, Jr.
Executive Director
Louisiana State Board of Dentistry

From: Jessica Weimer
Louisiana Department of Justice, Civil Division
Occupational Licensing Review Program

Date: April 8, 2025

Subject: Louisiana State Board of Dentistry
Proposed Amendment of LAC 46: XXXIII.128, 1611, 1613, 1709, 1711
- Provisional Licensure for Dental Healthcare Workers Providing Gratuitous Services
- Continuing Education Requirements for Relicensure of Dentists and Dental Hygienists
- Examination of Dentists and Dental Hygienists

I. Summary

The Louisiana Board of Dentistry (the “**Board**”) proposes amending LAC 46:XXXIII.128, 1611, 1613, 1709, and 1711 (the “**Proposed Amendments**”) relative to (i) provisional licensure for dental healthcare workers providing gratuitous services, (ii) continuing education (“**CE**”) requirements for relicensure of dentists and dental hygienists, and (iii) examination of dentists and dental hygienists¹.

The Board published a Notice of Intent to promulgate the Proposed Amendments on January 20, 2025.² The notice invited public comments through February 10, 2025 and received no written or requests for oral comments.³

Licensing and continuing education requirements are barriers to market entry for individuals desiring to engage in a profession or occupation. Therefore, the Proposed Amendments are 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 February 11, 2025. The OLRP invited public comments on the Proposed Amendments February 12, 2025 through February 19, 2025 and received no comments. As set forth below, the OLRP has

¹ Louisiana Register, Vol. 51, No 1, at pages 109-111

² Id

³ Id at pg. 111

⁴ La. R.S. 49:260 G(4)

determined the Board's Proposed Amendments to LAC 46:XXXIII.128, 1611, 1613, 1709, and 1711 adhere to clearly articulated state policy and therefore approve these Proposed Amendments for adoption as drafted.

II. Analysis

The Dental Practice Act, La. R.S. 37:751 *et seq.*, declares it unlawful for a person not licensed by the Board to practice dentistry in the state of Louisiana.⁵ The legislature has therefore directed the Board to conduct examinations to ascertain the qualifications and fitness of applicants for licensure, and to issue licenses, certificates, or authorities to all applicants who have been found to meet the necessary qualifications.⁶ The Board is similarly charged with promulgating rules and regulations relative to continuing education for relicensure and recertification of dentists.⁷ To these ends, the Board has discretion to impose such requirements and restrictions it considers proper and necessary to protect and promote the public health and welfare of Louisiana citizens.⁸

A. Proposed LAC 46:XXXIII.128

Provisional Licensure for Dental Healthcare Workers Providing Gratuitous Services

The Dental Practice Act grants the Board the power to (i) to issue provisional permits and licenses to qualified applicants⁹ and (ii) regulate the practice of licensed dentists and dental hygienists by prescribing the acts, services, procedures, and practices which may be performed and imposing requirements and restrictions considered proper and necessary to protect and promote the public health and welfare of the citizens of the state.¹⁰ The proposed changes are within the Board's aforementioned discretionary powers.

The Board proposes amending LAC 46:XXXIII.128 (A) to allow the Board to designate appropriate sites where gratuitous services by out of state dentists and dental hygienists may be provided. The prior rule indicated the Louisiana Department of Health and Hospitals ("LDH") must specify the sites. The Board indicates that the LDH has stopped specifying such sites where gratuitous services may be provided to the citizens of Louisiana. The proposed amendment is within the broad grant of discretion under La. R.S. 37:760 (A)(8), wherein the Board is authorized to impose such requirements and restrictions deemed proper and necessary to protect and promote the public health and welfare of the citizens of this state.

Based on the foregoing, the Attorney General has determined the proposed amendment to §128(A) as described herein adhere to clearly articulated state policy and approves the amendments for adoption as submitted.

⁵ La. R.S. 37:751(11); La. R.S. 37:751(B)

⁶ La. R.S. 37:760(A)(1) and (6)

⁷ La. R.S. 37:760 (A)(13)

⁸ La. R.S. 37:760(A)(8)

⁹ La. R.S. 37:760 (A)(6)

¹⁰La. R.S. 37:760 (A)(8)

B. Proposed LAC 46:XXXIII.1611 and 1613

Continuing Education Requirements for Relicensure of Dentists and Dental Hygienists

LAC 46:XXXIII.1611(C) currently provides that past and present dentist members of the Louisiana State Board of Dentistry are allowed four hours of continuing education credit for each meeting of the American Association of Dental Examiners Boards attended by said member. The Board proposes adding 1611(C)(2) allowing for current dentist members of the Board to be allowed one hour of continuing dental education credit for each meeting of the Board attended by the said member.

LAC 46:XXXIII.1613 (D) currently provides that past and present dental hygiene members of the Louisiana State Board of Dentistry are allowed four hours of continuing education “(credit for each meeting of the American Association of Dental Examiners Boards attended by said member. The Board proposes adding 1611(D)(2) allowing for current dental hygiene members of the Board to be allowed one hour of continuing dental education credit for each meeting of the Board attended by the said member.

The Board indicates these Proposed Amendments will allow board members continuing education credit to reflect the learning experience they obtain during the year by reviewing numerous complaints each meeting. The Board’s ability to award CE hours to dentists and dental hygienist board members who attend American Association of Dental Examiners Board meetings already exists pursuant to LAC 46:XXXIII.1611(C) and 46:XXXIII.1613 (D). The Board is expanding the offering of CE hours for Louisiana State Board of Dentistry meetings. The proposed clarification is within the broad grant of discretion to the Board under La. R.S. 37:760(A) (13), wherein the Board is authorized to “determine by rule, minimum requirements relative to continuing education for relicensure”¹¹ that promote the public health and welfare.¹² Based on the foregoing, the Attorney General has determined the Proposed Amendments to §1611 and §1613 are within the statutory authority of the Board and adhere to clearly articulated state policy and approves the amendments for adoption as submitted.

C. Proposed LAC 46:XXXIII.1709 and 1711

Examination of Dentists and Dental Hygienists

LAC 46:XXXIII.1709 (F) currently states no candidate for licensure as a dentist in the state of Louisiana will be granted a license if said candidate has failed any clinical examination three times. This may be overcome if the applicant meets all other requirements, including successful completion of one exam listed in 46:XXXIII.1709 (C) and pursuant to §(F)(1) has been actively practicing with an unrestricted dental license for five years in another state, has not had any discipline by the dental board in any state, and meets in person with the full board, and thereafter a majority of the full board votes to overcome this prohibition; or (F)(2) following the last failure of the clinical licensure examination, completes a dental post-doctoral program of a minimum of

¹¹ La. R.S. 37:760(A)(13)

¹² La. R.S. 37:760(A)(8)

one year which is accredited by an accreditation agency recognized by the United States Department of Education and meets in person with the full board.

LAC 46:XXXIII.1711 (F) currently states no candidate for licensure as a dental hygienist will be granted if said candidate has failed any clinical licensing examination three times. This prohibition may be overcome if the applicant meets all other requirements, including the successful completion of an initial licensure examination that included procedures on a live patient, has been actively practicing with an unrestricted license for five years in another state, and meets with the full board, and thereafter the full board votes with a majority to overcome this prohibition.

The Board proposes amending these rules to remove the mandatory requirement that the applicant with three licensing failures meet with the Board, and only requiring it if deemed necessary. The Board indicates this amendment is to eliminate unnecessary meetings. The ability to overcome the prohibition of licensure following three failures of a clinical licensing examination already exists pursuant to §1709(F) and §1711(F). These Proposed Amendments aim to reduce potential barriers to licensure for those wishing to practice as a dentist or a dental hygienist by removing the mandatory requirement of meeting with the full Board, while aiming to reduce unnecessary meetings and increase efficiency of the Board. The Board is authorized to conduct examinations to ascertain qualifications and fitness of applicants for licenses as dentists and dental hygienists,¹³ and prescribe rules and regulations for the examination of candidates¹⁴ to promote and protect the health and welfare of the citizens of the state of Louisiana. As such, these Proposed Amendments are within the board's statutory authority and adhere to clearly articulated state policy.

III. Determination

As the Attorney General has determined the Proposed Amendments to LAC 46:XXXIII.128, 1611, 1613, 1709, and 1711 are within the Board's statutory authority and adhere to clearly articulated state policy of promoting and protecting the health and welfare of the citizens of the State of Louisiana, the Proposed Amendments are approved as submitted and may be adopted by the Board.

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM



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¹³ La. R.S. 37:760(A)(1)

¹⁴ La. R.S. 37:760 (A)(3)