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From: Jessica Weimer
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Occupational Licensing Review Program

Date: April 14, 2025

Subject: Louisiana State Board of Medical Examiners
Proposed Amendments to LAC 46:XLV.171, *et seq.*, 1901, *et seq.*, 4905 *et seq.*
Regarding Occupational Therapy Regulations

I. SUMMARY

The Louisiana State Board of Medical Examiners (the “**Board**”) proposes amending LAC 46: XLV.171, *et seq.*, 1901, *et seq.*, and 4905 *et seq.* (the “**Proposed Amendments**”), regarding Occupational Therapist (“**OT**”) and Occupational Therapist Assistant (“**OTA**”) ¹ regulations.² The Proposed Amendments revise the chapters governing OT and OTA (i) fees, (ii) licensure and recertification, and (iii) practice.³

The Board published a Notice of Intent to promulgate the Proposed Amendments on December 20, 2024.⁴ The Notice invited written comments on these Proposed Amendments until January 9, 2025 and received several in response.⁵ There were no requests for public hearing. The public responses contained requests for clarification and suggestions for continuing education credits and supervision requirements. After consideration and deliberation of the written comments, the Board, along with the Occupational Therapy Advisory Committee (“**OTAC**”), decided against making any further substantive changes to the Proposed Amendments.

Licensing, permitting, training, and continuing education requirements are barriers to market entry for individuals desiring to engage in a profession or occupation. Therefore, the Proposed Amendments may be considered occupational regulations with reasonably foreseeable anti-competitive effects.⁶ Pursuant to La. R.S. 49:260, the Board submitted the Proposed Amendments to the Louisiana Department of Justice’s Occupational Licensing Review

¹ Also hereinafter referred to as “Occupational Therapy Practitioners”

² Louisiana Register, Vol. 50, No. 12, at pgs. 1906-1921

³ Id.

⁴ Id.

⁵ Id. at 1331-1332

⁶ La. R.S. 49:260 G(4)

Program (“**OLRP**”) on February 14, 2025. The OLRP invited public comments on the Proposed Amendments February 14, 2025 through February 19, 2025 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.⁷ 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 of a controlling number of active market participants is excluded.”⁸ 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).⁹ 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.¹⁰

As set forth below, the OLRP has determined the Board’s Proposed Amendments to LAC 46:XLV §171, *et seq.*, §1901, *et seq.*, and §4905 *et seq.* adhere to clearly articulated state policy and are within the Board’s statutory authority. Therefore, these amendments are approved for promulgation as drafted in accordance with the Louisiana APA.

II. ANALYSIS

The Louisiana Legislature has deemed it the policy of the State of Louisiana in the interest of public health, safety, and welfare to provide laws and provisions covering the practice of medicine and its subsequent use, control, and regulation to protect the public against unprofessional, improper, unauthorized, and unqualified practice of medicine and from unprofessional conduct of persons licensed to practice medicine.¹¹ The Board of Medical Examiners was created to control and regulate the practice of medicine in this state.¹² The Board is authorized to take appropriate administrative actions to regulate the practice of medicine in Louisiana in order to promote the established policy of the State.¹³ The Board may also adopt rules, regulations and standards necessary to carry out the board’s duties, powers and functions as provided for in LSA R.S. 37:1261 *et seq.*¹⁴ Pursuant to the Louisiana Occupational Therapy Practice Act (LSA R.S. 37:3001 *et seq.*), the regulation of persons offering occupational therapy services is required to protect “the public health, safety, and welfare; protect the public from being misled by incompetent, unscrupulous, and unauthorized persons; assure the highest degree of professional conduct on the part of occupational

⁷ LSA-R.S. 49:260 (D) (2)

⁸ LSA-R.S. 49:260 (G) (4)

⁹ LSA-R.S. 49:951 (8)

¹⁰ Black’s Law Dictionary, 12th Edition p. 116

¹¹ LSA-R.S. 37:1261

¹² LSA-R.S. 37:1263

¹³ LSA-R.S. 37:1270 (A)(1)

¹⁴ LSA-R.S. 37:1270 (B)(6)

therapists, occupational therapy assistants, and occupational therapy services of high quality to persons in need of such services.”¹⁵

A. Proposed LAC 46:XLV.171 *et seq.*

i. LAC 46:XLV.173 – Licenses and Permits

Currently, §173 states the processing of an application for an OT license shall be \$150 payable to the Board and \$100 for an OTA license payable to the Board. The Board proposes changing this to specify the fee is for the initial application for an OT and OTA.

The Board shall establish a reasonable fee schedule for issuance, renewal, and reinstatement of any license, certificate, registration, or permit issued to an OT or OTA, and may modify the fees as deemed necessary by the Board.¹⁶ Any initial application fee for a license, permit, or certificate issued by the Board shall not exceed three hundred dollars (\$300.00).¹⁷

Licensing fees, while a potential barrier to market entry, support the state’s public policy of protecting the health, safety, and welfare of the people of the State of Louisiana by funding the oversight, enforcement, and professional standards necessary to ensure qualified and accountable practitioners. This proposed amendment adheres to clearly articulated state policy and is within the Board’s statutory authority. The Board may proceed with promulgation of this amendment in accordance with the Louisiana APA.

ii. Proposed LAC 46:XLV.177- Reinstatement of License

The Board proposes amending §177(A) to state: “For processing an application for reinstatement of a license which has lapsed by expiration or nonrenewal, additional fees as determined by the board shall be payable to the board.” Currently, for reinstatement the fee is \$25 in addition to the applicable renewal fee payable to the board.

The Board shall establish, by rule, a reasonable fee schedule for the reinstatement of any form of license, certificate, registration, or permit issued and for the fees and costs associated with any other administrative functions that it performs.¹⁸ The fees and costs for the reinstatement of a license, certificate, registration, or permit issued to an OT or OTA by the Board shall not exceed two hundred dollars.¹⁹ Further, an OT or OTA who has failed to renew timely, shall pay a delinquency fee, in addition to the renewal fee and other applicable fees and costs, not to exceed an amount equal to the renewal fee.²⁰

Licensing fees, while a potential barrier to market entry, support the state’s public policy of protecting the health, safety, and welfare by funding the oversight, enforcement, and professional standards necessary to ensure qualified and accountable practitioners. Insofar as

¹⁵ LSA-R.S. 37:3002

¹⁶ LSA R.S. 37:1281 (A)(2)

¹⁷ LSA R.S. 37:1281 (3)(b)(i)

¹⁸ LSA R.S. 37:1281(A)(2)

¹⁹ LSA R.S. 37:1281 (A)(3)(b)(ii)

²⁰ LSA R.S. 37:1281 (A)(3)(c)

the additional fees determined by the board do not exceed the statutory limit of two hundred dollars, the Board may modify the fee and cost schedule from time to time as deemed necessary.²¹ This proposed amendment adheres to clearly articulated state policy and is within the Board's statutory authority. The Board may proceed with promulgation of this amendment in accordance with the Louisiana APA.

B. Proposed LAC 46:XLV.1901 *et seq.*

i. Proposed LAC 46:XLV.1903 – Definitions

The Board proposes expanding the list of definitions by adding the following terms and definitions to §1903:

1. AOTA Guidelines (American Occupational Therapy Association, Inc.)
2. Approved Course
3. Client
4. Client Care Conference
5. Client-related tasks
6. Compact Privilege
7. Direct Supervision
8. Dry Needling
9. Education
10. Evaluation
11. General Supervision
12. Non-client related task
13. Non-skilled task
14. Occupational Performance
15. Occupational Therapy Code of Ethics
16. Occupational Therapy Practice Framework: Domain and Process (OTPF)
17. Occupational Therapy Practitioner
18. OTAC
19. Physical agent modalities
20. Re-evaluation
21. Position Statement
22. Referring Healthcare Professional
23. Screening
24. Service Competency
25. Standards for Continuing Competence in Occupational Therapy
26. Standards for Practice for Occupational Therapist
27. Supervising Occupational Therapist
28. Temporary Permit
29. Unlicensed Personnel
30. Unprofessional Conduct

²¹ LSA R.S. 37:1281(A)(2)

- 31. Volunteer
- 32. Wellness

The Board proposes removing the following definitions from the current list in §1903:

- 1. Association
- 2. Department
- 3. NBCOT

The Board proposes modifications of the following definitions from the current list in §1903:

- 1. Application
- 2. Occupational Therapy
- 3. Occupational Therapy Assistant

The Board may adopt rules, regulations and standards necessary to properly regulate the practice of medicine in the State of Louisiana in order to protect the public from the unqualified practice of medicine and carry out the board's duties, powers and functions.²² While this rule may govern the practice of occupational therapy, it does not have any reasonably foreseeable effects that would be a market barrier into or the continued practice of occupational therapy. Therefore, this rule does not require input from the OLRP pursuant to LA R.S. 49:260 and the Board may proceed with promulgation of this amendment in accordance with the Louisiana APA.

ii. **Proposed LAC 46:XLV.1905 Scope of Subchapter (Qualifications for License)**

Pursuant to the Louisiana Occupational Therapy Act (LA R.S. 37:3001 *et seq.*), no person may hold themselves out as an occupational therapist or an occupational therapy assistant, practice occupational therapy, or render occupational therapy services in the state without a license issued by the Board.²³ The Board is authorized to adopt rules, regulations, and standards necessary to carry out its duties, powers, and functions.²⁴ The Board shall also examine all applicants, issue licenses or permits to those possessing the necessary qualifications, and take appropriate administrative actions to regulate the practice of medicine in the state of Louisiana.²⁵

The Board proposes stylistic and/or wording changes to §1905 that do not alter the substantive meaning of this rule. Further, the proposed modifications make §1905 consistent with the proposed terminology in §1903. While this rule may govern the licensing and practice of occupational therapy, it does not have any reasonably foreseeable anti-competitive effects. Therefore, this rule does not require input from the OLRP pursuant to LA R.S. 49:260 and the

²² LSA R.S. 37:1261, LSA R.S. 37:1270 (B)(6)

²³ LSA R.S. 37:3004

²⁴ LSA R.S. 37:1270 (B)(6)

²⁵ LSA R.S. 37:1270 (A)(1)

Board may proceed with promulgation of the amendment in accordance with the Louisiana APA.

iii. **Proposed LAC 46:XLV.1907- Qualifications for License**

In order to be eligible for a license, an applicant shall:

- (i) Be of good moral character as defined in §1903;
- (ii) Be a citizen of the United States or possess valid and current legal authority to reside and work in the United States;
- (iii) Have successfully completed the academic and supervised field work experience requirements to sit for the “Certification Examination for Occupational Therapist, Registered” or the “Certification Examination for Occupational Therapy Assistant” as administered for or by the National Board for Certification in Occupational Therapy, Inc. (“*NBCOT*”) or other such certifying entity as may be approved by the board;
- (iv) Have taken and successfully passed the licensing examination required by the board in accordance with Subchapter D (Examination) of the OT and OTA chapter;
- (v) File an application for licensure in a format prescribed by the Board; and
- (vi) Present proof of current certification by the NBCOT in a manner as prescribed by the Board.

Under the proposed amendment, in order to be eligible for a license an applicant shall:

- (i) Be of good moral character as defined in §1903;
- (ii) Be a citizen of the United States or possess valid and current legal authority to reside and work in the United States;
- (iii) Have taken and passed the NBCOT examination;
- (iv) File an application for licensure in a format as prescribed by the board;
- (v) Present proof of current certification by the NBCOT as prescribed by the board; and
- (vi) Submit proof of proficiency in the English language by passing the Test of English as a Foreign Language (TOEFL) with a score acceptable to the board if a non-native English speaker.

In the interest of public health, safety and welfare, it is necessary to provide laws and provisions covering the use, control and regulation of the practice of medicine, such that the public is properly protected against unprofessional, improper, unauthorized, and unqualified practice of medicine.²⁶ The Board shall examine all applicants, issue licenses to those possessing the necessary qualifications, and take appropriate actions to regulate the practice of medicine in this state.²⁷ The Board may also adopt rules, regulations and standards necessary to carry out its duties, powers and functions.²⁸ No person shall practice occupational therapy or hold

²⁶ LSA R.S. 37:1261

²⁷ LSA R.S. 37:1270 (A)(1)

²⁸ LSA R.S. 37:1270(B)(6)

himself out as an OT or OTA or as being able to practice or render occupational therapy services unless licensed by the Board.²⁹ Pursuant to the Louisiana Occupational Therapy Act, an applicant for a license for an OT or OTA shall file a written application on forms provided by the board, showing to the satisfaction of the board that he is of good moral character and has successfully completed the academic and field work experience requirements to sit for examination and is approved by the board.³⁰ The Board shall determine the criteria for satisfactory performance on the examination based upon the AOTA criteria.³¹

Licensing requirements create barriers to market entry and reduce competition, thus the proposed amendment to §1907 is properly considered an occupational regulation with reasonably foreseeable anti-competitive effects. However, licensing qualifications support the state's public policy of protecting the health, safety, and welfare of its citizens by ensuring that the individuals engaged in the regulated profession meet the established standards of competence, conduct, and accountability as set forth by the Board.

As such, this proposed amendment furthers a legitimate public policy interest, does not present an unreasonable burden on the applicant, is within the Board's statutory authority, and adheres to clearly articulated state policy. The Board may proceed with promulgation of this amendment in accordance with the Louisiana APA.

iv. Proposed LAC 46:XLV.1911, 1913 Regarding Applications; §1921 Regarding Examinations, §1937 Regarding Temporary Licenses/Permits

The Board proposes amendments to §§1911, 1913, 1921, and 1937 that consist solely of wording and stylistic changes to align these regulations with the definitions set forth in §1903, without effecting any substantive change to the meaning or intent of the regulations. The Proposed Amendments to §§1911 and 1921 replace “therapists and occupational therapy assistants” with “occupational therapy practitioners” in conformity with §1903. The Proposed Amendment to §1913 replaces “as provided in Chapter 1 of these rules” with “as set forth by the Board” for clarity. The Proposed Amendment to §1937 replaces “license” with “permit.”

These Proposed Amendments 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.

v. Proposed LAC 46:XLV.1939 - Permit Pending Examination; Re-examination; Renewal

The Board proposes amendments to §1939 changing the word license to permit, allowing for a permit pending examination or examination results, allowing a temporary permit holder to practice occupational therapy under the direct supervision of a licensed OT, and restricts the temporary permit holder to practicing under the supervision of no more than two licensed OT.

²⁹ LSA R.S. 37:3004

³⁰ LSA R.S. 37:3006

³¹ LSA R.S. 37:3007

The current rule §1939 only allows a temporary permit while the applicant is awaiting examination and does not restrict the practice under supervision to no more than two occupational therapists.

The Board shall examine all applicants, issue licenses to those possessing the necessary qualifications, and take appropriate actions to regulate the practice of medicine in this state.³² The Board may also adopt rules, regulations and standards necessary to carry out its duties, powers and functions.³³ No person shall practice occupational therapy or hold himself out as an OT or OTA or as being able to practice or render occupational therapy services unless licensed by the Board.³⁴

Licensing requirements create barriers to market entry; however allowing for a three-month temporary permit while an applicant has completed the academic and supervised fieldwork experience requirements while awaiting examination or examination results reduces said barriers. This proposed amendment is within the Board's statutory authority and aligns with clearly articulated state policy. The Board may promulgate this proposed amendment in accordance with the APA.

vi. Proposed Amendments to 46:XLV.1943 and 1947 - Issuance and Renewal of License

The Board proposes amendments to §§1943 and 1947 consist exclusively of textual and stylistic modifications to provide clarity in grammar and ensure consistency with the definitions set forth in §1903, without effecting any substantive changes to their meaning or intent. Although occupational licensing may have anti-competitive effects, these Proposed Amendments are not anticipated to result in any such effects. As such, they do not require input from the OLRP. Therefore, the Board may proceed with promulgation of these amendments in accordance with the Louisiana APA.

vii. Proposed Amendment to 46:XLV.1951 - Titles of Licensees

The Board proposes grammatical revisions to §1951(A) and (B), as well as the inclusion of additional abbreviations ("OTA/L" and "COTA/L") that occupational therapy practitioners may use to indicate their licensure status. The Board further proposes amending §1951 by adding (C) regarding the use of the title of Doctor. The proposed amendment permits licensees holding a doctoral degree in occupational therapy or a related field to use the title "Doctor" or corresponding doctoral abbreviations (e.g., OTD, PhD, EdD) as applicable in written or spoken communications, provided the specific degree is clearly identified in writing or the individual identifies as an occupational therapy practitioner when speaking.

While this rule governs the use of professional titles by licensees and specifies who may hold themselves out as occupational therapy practitioners under LSA-R.S. 37:3004, it does not

³² LSA R.S. 37:1270 (A)(1)

³³ LSA R.S. 37:1270(B)(6)

³⁴ LSA R.S. 37:3004

present any reasonably foreseeable anti-competitive effects that would limit entry into or continued practice within the occupational therapy profession. By clearly delineating the terminology and abbreviations that a licensed occupational therapy practitioner may use to identify their licensure status, this rule serves to protect the public from being misled by incompetent, unscrupulous, or unauthorized individuals, consistent with the intent and purpose of LSA R.S. 37:3002 of the Louisiana Occupational Therapy Act. Although the proposed amendment has no reasonably foreseeable anti-competitive effects, it falls within the Board's statutory authority outlined in LSA R.S. 37:1270(B) (6) and aligns with clearly articulated state policy. However, the proposed amendment does not require review by OLRP and the Board may proceed with promulgation in accordance with the APA.

viii. Proposed Amendment to LAC 46:XLV.1959 - Composition; Appointment of Occupational Therapy Advisory Committee (“OTAC”)

Currently §1959 states the OTAC shall comprise nine members, eight of whom shall be OT and one should be an OTA, unless no qualified OTA seeks appointment, in which case the board should comprise of nine OT. The OTAC members shall be licensed by the Board, practicing and residing in Louisiana, and there should be at least one licensed occupational therapy practitioner proficient in and representing the areas of administration and management, developmental disabilities, education, mental health, and physical disabilities.

The Board proposes amending §1959 to add the following areas of proficiency among the members, insofar as it is practical: geriatrics, pediatrics, assistive technology, and community practice and wellness. The Board further proposes adding requirements for receiving nominations and/or suggestions for replacement members upon expiring terms, and the selection of chairs and desired officers.

The Board may adopt rules, regulations and standards necessary to carry out its duties, powers, and functions.³⁵ Adding the areas of occupational therapy practice proficiencies to the OTAC ensures to safeguard the public health, safety, and welfare against incompetent, unscrupulous, and unauthorized persons and assure the highest degree of professional conduct and services provided by occupational therapy practitioners.³⁶

This proposed amendment is not an occupational regulation with reasonably foreseeable anticompetitive effects and does not require input from the OLRP. However, this proposed amendment is within the Board's statutory authority and adheres to clearly articulated state policy. Therefore, the Board may proceed with promulgation in accordance with the Louisiana APA.

ix. Proposed Amendment to LAC 46:XLV.1961 - Delegated Duties and Responsibilities (of the OTAC)

LAC 46:LXV.1961 delineates the duties and responsibilities delegated to the OTAC by the Board in relation to the regulation of occupational therapy. The responsibilities include

³⁵ LSA R.S. 37:1270 (B)(6)

³⁶ LSA R.S. 37:3002

assisting with the evaluation of licensure examinations, reviewing applicant qualifications, advising on rulemaking, serving as liaison among the Board and professional associations, and participating in the review of continuing professional education (“*CE*”) requirements. Committee members are considered agents of the Board when acting within their scope of authority and are bound by confidentiality obligations.

The proposed amendments revise and expand the scope of §1961 to:

- a. Clarify the purpose of the OTAC by inserting a statement that the OTAC is authorized “in its mission to protect the consumers of occupational therapy,” aligning its role more explicitly with the Board’s public protection mandate;
- b. Reorganize responsibilities by (i) revising the committee’s role in advising on applicant qualifications (new A(1)) and assistant with applicant interviews when requested by the Board (new A(2)), and (ii) consolidating and simplifying the committee’s role in advising on CE requirements (new A(6));
- c. Add new responsibilities by (i) permitting the committee to assist the Department of Investigations in matters of ethics or discipline upon request by the board (A(7)), (ii) requiring the OTAC to review and revise the LSBME’s Occupational Therapy Practice (OTP) rules every three years (A(8)); and
- d. Clarify the confidentiality scope (B) by updating references to reflect new paragraph numbers and reaffirming the confidentiality restrictions when performing functions authorized to the OTAC and members.

The proposed amendments streamline and clarify existing duties, expand the committee’s oversight role by including duties related to disciplinary matters and rule review, promote accountability and alignment with evolving professional standards, and reinforce the Board’s consumer protection mandate by explicitly linking the OTAC’s advisory role to public protection. These amendments are consistent with the Board’s statutory authority under LSA R.S. 37:3001 *et seq.* and LSA R.S. 37:1270 (B)(6) and represent no foreseeable anti-competitive effects, as they pertain to advisory and administrative functions without altering licensure eligibility or access to the profession. As such, the proposed changes do not require review by the OLRP and may be promulgated in accordance with the APA.

x. Proposed LAC 46:XLV.1965 - Continuing Professional Education Requirement

The Board is statutorily authorized to establish and determine minimum requirements relative to continuing education for the renewal or reinstatement of any license or permit issued by the Board.³⁷ Occupational Therapy practitioners are currently required to successfully complete no less than 12 contact hours, or 1.2 continuing education units (CEUs) within each year licensure is held. Based upon the current rule, One CEU constitutes 10 hours of participation in an organized CE program approved by the board.

The Board proposes amending §1965 to require an occupational therapy practitioner to successfully complete 14 contact hours, or 1.4 CEUs, which must include 1 hour of Ethics

³⁷ LSA R.S. 37:1270(A)(8)

(approved by AOTA, LOTA, or NBCOT) and a 1 hour course provided by the Board on the rules and regulations for OTs and COTAs.

The proposed expansion of continuing education requirements may impose additional time and financial obligations on licensees, which could, in certain circumstances, present a barrier to market entry or reentry. However, these requirements are reasonably related to maintaining clinical competency and ensuring ongoing professional development, both of which directly advance the state's public policy objective of protecting the health, safety, and welfare of the citizens of the state of Louisiana. As such, while having reasonably foreseeable anti-competitive effects, the proposed amendments are narrowly tailored to serve a legitimate regulatory purpose and do not constitute an unreasonable or unjustified restraint on market entry. Further, the proposed amendment is within the Board's statutory authority and clearly articulated state policy. Therefore, the Board may move forward with promulgation of this proposed amendment to §1965 in accordance with the APA.

xi. Proposed Amendment to LAC 46.XLV. 1967 – Qualifying Professional Education Programs

The current rule §1967 outlines requirements for qualifying continuing professional education programs (“**CE**”) acceptable for occupational therapy licensure renewal, including content relevance to occupational therapy practice, the qualifications of instructors, and methods for documenting course completion, as well as what activities and programs are excluded from qualifying as a CEU. To qualify, the program must relate directly to the practice or development of occupational therapy, must be presented by qualified instructors and include verification of attendance and completion, and provides limits/requirements for acceptable self-study or independent study, publications, and activities that qualify for credit.

The proposed amendment to §1967 aims to refine and expand the types of qualified continuing education programs. The proposed amendments require that all qualifying programs be approved by the AOTA, Louisiana Occupational Therapy Association (“**LOTA**”), or the NBCOT. Documentation for course completion must include a certificate from the course sponsor with specific details such as course name, date, and the number of contact hours or CEUs earned. Licensees may earn up to four (4) CEUs per year providing Level II fieldwork (“**FW**”) education to students from accredited programs, with specific documentation requirements. This proposed amendment establishes a structured approach to earning CEUs based on the duration of the fieldwork education, with contact hours earned for each 3-week period of Level II FW education. The amendment also allows licensees to earn CEUs for presenting initial presentations, workshops, and institutes presented by the licensee and approved by the AOTA, LOTA, or NBCOT. The number of CEUs or contact hours earned is calculated at twice the number of hours granted to the course participants. Documentation must include a course completion certificate or official program confirming the licensee's role as present and the number of CEUs or contact hours awarded. The previous rule allowed a maximum of 5 hours per year for initial presentations, workshops, and institutes presented when documented by an official program, schedule or syllabus containing title, date, hours and type of audience and did not dictate approval of the program by the AOTA, LOTA, or NBCOT. Lastly, the proposed amendment expands CEU opportunities to licensees who complete post-

professional occupational therapy coursework at accredited universities listed on the AOTA website, including programs leading to a Doctorate in Occupational Therapy, PhD in Occupational Therapy, or bridge programs for OTAs. CEUs are awarded at twice the number of credit hours for the coursework. However, courses with grades D or F will not count towards CEUs.

The proposed amendment expands the access to qualifying CEUs by including Level II FW and post-professional coursework. The amendment further provides for greater insight and accountability by requiring approval from the AOTA, LOTA, or NBCOT enhancing the standardization and quality of the CE programs. The expanded opportunities for advanced coursework and fieldwork align with the state's public policy by ensuring that practitioners remain current and knowledgeable in their practice. The amendment emphasizes the importance of formal, structured education over informal activities (e.g. reading or mentoring) ensuring that licensees engage in high quality and relevant educational experiences.

The proposed amendment is consistent with clearly articulated state policy of promoting the health, safety, and welfare of the public by ensuring licensed occupational therapy practitioners maintain up to date knowledge and skills. However, the expanded CE requirements may increase the burden on new licensees or those seeking to maintain licensure, but the additional avenues of earning CEUs (such as fieldwork education and advanced coursework) provide a broader range of opportunities to meeting the requirements, which helps mitigate any negative impact on market entry. By broadening the types of qualifying activities and enhancing the documentation process, the proposed amendment ensures the continuing education requirements remain relevant, accessible, and align with the goal of protecting public health and safety. Therefore, the proposed amendment is within the Board's statutory authority, is consistent with clearly articulated state policy, and is approved for promulgation in accordance with the APA.

xiii. Proposed Amendment to LAC 46:XLV.1969 – Approval of program sponsors

Currently §1969 (A) states that any program, course, seminar, self-study, independent study or other activity meeting the standards prescribed in §1967 sponsored or offered by the AOTA, an AOTA approved provider, or the LOTA shall be presumptively deemed as an approved program by the Board. The proposed amendment expands this rule to include programs, courses, seminars, self-studies, independent studies, or other activities meeting the requirements of §1967 approved the NBCOT.

§1969(B) states that upon recommendation of the OTAC, the board may designate additional organizations and entities as an approved CE program. The proposed amendment clarifies the additional organizations must be nationally accredited.

The Board is authorized to establish and determine minimum requirements for CE for the renewal or reinstatement of any license or permit issued by the Board.³⁸ Continuing Education is a potential barrier to market entry. However, CE requirements, when clearly defined,

³⁸ LSA R.S. 37:1270(A)(8)

reasonably accessible, and not overly burdensome are a lawful and appropriate exercise of the Board's discretionary powers in furtherance of protecting the health, safety, and welfare of the public. By allowing for approved programs also offered by the NBCOT, the Board is expanding the potential courses or programs a licensee has access too. Further, by requiring the organizations and entities who may be recommended by the OTAC and approved by the Board as a qualifying program to be nationally accredited, the Board is able to ensure the occupational therapy practitioner is competent and qualified. Because this proposed amendment is within the Board's statutory authority and adheres to clearly articulated state policy, this proposed amendment may be promulgated in accordance to the APA.

xiii. Proposed Amendment to LAC 46:XLV.1973 – Documentation Procedure

The proposed amendment to §1973 clarifies that the annual documentation and certification of satisfaction of CE requirements must be submitted using an electronic system prescribed by the Board and must be completed prior to renewal of the license. Currently, annual documentation and certification of satisfaction shall be submitted “in a format prescribed by the board.”

As stated above, continuing education may be a barrier to market entry. However, this amendment clarifies the policy and procedures of the submission of CE documentation as required by the Board. As such, there are no reasonably foreseeable anti-competitive effects and does not require input by the OLRP. Because the Board has the statutory authority to create minimum requirements relative to CE³⁹ and may adopt rules, regulations, and standards as necessary to carry out its duties, powers and functions,⁴⁰ the Board is authorized to amend the documentation procedure to require the electronic submission of required documentation. The Board may proceed with promulgation of this proposed amendment in accordance with the APA.

xiv. Proposed Amendment to LAC 46:XLV.1975 – Failure to Satisfy Continuing Professional Education Requirements

Under the current rule, licensees who fail to meet CE requirements shall receive a written notice of the failure by the Board and may retain a valid license for 60 days, during which they may provide evidence of compliance to prevent expiration or revocation of the license. Reinstatement of an expired license requires 12 CEU hours and current NBCOT certification or a recent successful passing of the recertification examination of the NBCOT.

The proposed amendment removes the 60-day grace period in which the license remains active and mandates that CE requirements be satisfied and verified by the Board's contractor prior to license renewal. The license may be renewed 8 weeks prior to the last day of the applicant's birth month. Failure to comply with CE requirements prior to renewal results in an expired license that must be renewed prior to any occupational practice. Practitioners have 60 days from the expiration to complete the CE requirements, submit written application to the board

³⁹ LSA R.S. 37:1270 (A)(8); LSA R.S. 37:3012(B)

⁴⁰ LSA R.S. 37:1270(B)(6)

along with payment of a reinstatement fee and all other applicable fees and costs, and provide documentation and certification of 14 CEU hours and current NBCOT certification. Further, reinstatement may require submission to a criminal background check at the Board's discretion.

This proposed amendment provides a stricter approach to enforcing CE compliance as a condition of continued licensure. While the amendment may impose a greater burden on licensees and delay renewal and/or reentry into the practice for some, they aim to uphold the state's interest in ensuring that occupational therapy practitioners maintain up to date professional competencies. As previously established, setting minimum requirements relative to CE for renewal and reinstatement of a license is within the Board's statutory authority. Further, this proposed amendment adheres to clearly articulated state policy and is therefore approved for promulgation in accordance with the APA.

xv. Proposed Rule LAC 46:XLV.1977 - Waiver of Requirements

The Board proposes a title change in §1979 from "Waiver of Requirements" to "Waiver of Continuing Professional Requirements." This is a stylistic change aimed to clarify what requirements will be waived pursuant to this rule. As such, this amendment does not require input from the OLRP pursuant to LA R.S. 49:260 and the Board may proceed with promulgation of this amendment in accordance with the APA.

xvi. Proposed Rule LAC 46:XLV.1979- Exceptions to Continuing Professional Education Requirements

The current rule §1979 exempts OTs and OTAs from CE requirements for license renewal if they are employed exclusively by, or at an institution operated by, a Louisiana state agency or department, or if they have held an initial Louisiana license by examination for less than one year.

The proposed amendment removes the exemption for OTs and OTAs employed exclusively by, or at an institution operated by, a Louisiana state agency or department. The amendment also adds that an occupational therapy practitioner who has held an initial Louisiana license on the basis of examination for less than one year must also have completed the Laws & Rules course prior to the first annual renewal in order for this exemption to apply.

The Board shall establish the criteria and rules on CE requirements for retention or renewal of licenses.⁴¹ Continuing education requirements may be a barrier on market entry. However, there are no foreseeable anti-competitive effects, as this rule regards exemptions to these requirements. Because this amendment has no foreseeable anti-competitive effects, it does not require input from the OLRP. However, this proposed amendment is within the Board's statutory authority and is in adherence with clearly articulated state policy. As such, the Board may promulgate this amendment in accordance with the APA.

⁴¹ LSA R.S. 37:3012(B), LSA R.S. 37:1270(B)(6)

C. Proposed Rules LAC 46:XLV.4905 et seq. Regarding Standards of Practice and Unauthorized Practice, Prohibitions, and Causes for Administrative Action

The Board proposes amending LAC 46:XLV.4905 *et seq.* governing the minimum standards for occupational therapy practitioners licensed in the state of Louisiana regarding:

- §4905 Scope of Subchapter
- §4907 Screening;
- §4909 Referral;
- §4911 Evaluation;
- §4913 Intervention process;
- §4917 Discontinuation of services;
- §4925 Supervision of OTAs;
- §4926 Types of supervision;
- §4927 OTA service competency;
- §4927 Documentation of OT supervision of an OTA;
- §4928 Supervision of unlicensed personnel and volunteers;
- §4929 Supervision of OT and OTA students;
- §4930 Dry needling;
- §4931 (current rule §4927) Unauthorized practice;
- §4932 (current rule §4929) False Representation of Licensure; and
- §4933(current rule §4931)Suspension and Revocation of License, Refusal to Issue or Renew; Unprofessional Conduct;

Regulation of occupational therapy practitioners by the Board is legislatively mandated in order to safeguard the public health, safety, and welfare; protect the public from incompetent, unscrupulous, and unauthorized persons; ensure the highest degree of professional conduct; and assure occupational therapy services of high quality to the citizens of the state of Louisiana.⁴² In furtherance of this purpose, the Board shall take appropriate administrative actions to regulate the practice, examine all applicants for the practice, issue licenses and permits to those possessing the necessary qualifications, establish and determine CE requirements for renewal or reinstatement of licenses, and adopt rules, regulations and standards necessary to carry out the board's duties, powers, and functions provided for in this part.⁴³

The proposed amendments to §§4931, 4932, and 4933 consist of unauthorized practice, false representation, unprofessional conduct and disciplinary actions that may have reasonably foreseeable anti-competitive effects. However, the proposed modifications are limited to renumbering, grammatical corrections, and clarifications that do not substantively affect the current meaning or intent of the rules. Therefore, input from the OLRP is not required pursuant to LA R.S. 49:260.

The proposed amendments to §§4905-4929 govern the practice requirements of occupational therapy practitioners and do not have any reasonably foreseeable anti-competitive effects that

⁴² LSA R.S. 37:3002

⁴³ LSA R.S. 37:1270

would limit entrance into the or the continued practice of occupational therapy. Therefore, these proposed amendments do not require input from the OLRP pursuant to LA R.S. 49:260 and the Board may proceed with promulgation of the amendments in accordance with the APA.

III. Determination

The Board is a state regulatory body created “as a matter of policy in the interests of public health, safety, and welfare to provide laws and provisions covering the granting of [the privilege of the practice of medicine] and its subsequent use, control, and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized, and unqualified practice of medicine from unprofessional conduct of persons licensed to practice medicine.”⁴⁴ The Board is further authorized to regulate the practice of occupational therapy under the Louisiana Occupational Therapy Act in order to “safeguard the public health, safety and welfare; protect the public from being misled by incompetent, unscrupulous, and unauthorized persons; assure the highest degree of professional conduct on the part of occupational therapists, occupational therapy assistants, and occupational therapy services of high quality to persons in need of such services.”⁴⁵ The Board may adopt rules, regulations, and standards necessary to carry out its duties, powers, and functions as mandated by the legislature.⁴⁶ Because the proposed amendments are within the Board’s statutory authority and adhere to clearly articulated state policy of protecting the public health, safety, and welfare of the citizens of this state, the proposed amendments are 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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⁴⁴ LSA R.S. 37:1261

⁴⁵ LSA R.S. 37:3001 et seq.

⁴⁶ LSA R.S. 37:1270(B)(6)