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

From: Nicol Hebert, Deputy Director
Louisiana Department of Justice
Occupational Licensing Review Program

Date: April 9, 2024

Subject: OLRP File No. 24-03-OR-0024 – Louisiana State Board of Dentistry
Proposed Amendment to LAC 46:XXXIII.313
Portable and Mobile Dentistry

I. Summary

The Louisiana State Board of Dentistry (the “Board”) proposes amending the provisions of LAC 46:XXXIII § 313 with respect to providing Portable and Mobile Dentistry. The Board published a Notice of Intent to promulgate the proposed amendment to § 313 in the Louisiana Register on February 20, 2024.¹ The notice invited written public comments and requests for oral presentation, argument, or a public hearing for a 20-day period ending on March 12, 2024. No comments or requests were received during the public comment period.

Licensing requirements create barriers to market entry for individuals desiring to engage in a profession or occupation, and the proposed amendment to § 313 is therefore properly considered an occupational regulation with a reasonably foreseeable impact on competition.² The Board submitted the proposed amendment to the Louisiana Department of Justice’s Occupational Licensing Review Program on March 13, 2024. The Louisiana Attorney General’s Office initiated review on March 20, 2024. The Attorney General invited public comments on the proposed amendments for a 30-day period ending on April 3, 2023, and received no comments. As set forth below, the Attorney General has determined the Board’s proposed amendment to § 313 is in keeping with the clearly articulated state policy and therefore approves the amendment as drafted.

II. Analysis

The Dental Practice Act, LSA-R.S. 37:751 *et seq.* (hereinafter the DPA), is the Board’s enabling statute. The DPA provides the Board with specific powers and duties.³ Those powers include the ability to

¹ Louisiana Register Vol. 50, No. 2 at pg. 305.

² LSA-R.S. 49:260(G)(4)

³ LSA-R.S. 37:760

promulgate rules and regulations for licensees.⁴ Said rules and regulations can set parameters on what services can be performed and how they can be provided.⁵ The rule subject to the proposed amendments, § 313 - Portable and Mobile Dentistry, also has specific statutory support.⁶ One of those statutes, LSA-R.S. 37:796, requires the Board to enact rules related to portable and mobile dentistry.⁷ Said statute also provides a list of 8 categories of rules that must be included.⁸ Those categories include: 1.) permitting, 2.) recordkeeping, 3.) practice standards and types of services, 4.) signed consent forms for minors, 5.) parental consultation and involvement for minors, 6.) equipment standards, 7.) inspections by the Board, and 8.) disposal of infectious waste.⁹ Thus, the Board's power to make rules and regulations is a clearly articulated State policy. Furthermore, in this particular case, the law commands the Board to enact rules related to portable and mobile dentistry.

LAC 46:XXXIII § 313 contains the current rules applicable to portable and mobile dentistry. Consistent with the DPA, the existing language of § 313 contains the rules required by LSA-R.S. 37:796(B)(1-8). According to the Board, the proposed amendments to § 313 are intended to remove the requirement for lead aprons for digital radiographs, and to update/remove "unnecessary and overly specific language". As written, the proposed amendments do not encroach upon the rules required by LSA-R.S. 37:796(B)(1-8). Furthermore, said amendments are in keeping with the affirmatively expressed and clearly articulated policy of the Louisiana Legislature in LSA-R.S. 37:760 and LSA-R.S. 37:796.

III. Determination

The Attorney General commends the Board's continuing efforts to reduce unnecessary rules and regulations within its purview. The removal of unnecessary rules can help promote efficiency and competition. The amendments to LAC 46:XXXIII § 313 are approved and may be finally adopted by the Board.

LOUISIANA DEPARTMENT OF JUSTICE

BY: 

Nicol Hebert, Deputy Director
Occupational Licensing Review Program

⁴ LSA-R.S. 37:760(A)(8)

⁵ Id

⁶ LSA-R.S. 37:796 and 796.1

⁷ LSA-R.S. 37:796(A)

⁸ LSA-R.S. 37:796(B)(1-8)

⁹ Id