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To: Mr. Jared B. Granier
Executive Director
Louisiana Board of Veterinary Medicine

From: Jessica Weimer, Section Chief
Louisiana Department of Justice
Occupational Licensing Review Program

Date: September 23, 2024

Subject: OLRP File No. 2024.08.20 LBVM Professional Standards
Proposed Amendments to LAC 46:LXXXV §§1007, 1011, 1025, 1039, 1051, 1057, and
1063 Regarding Rules of Professional Conduct

I. Summary

The Louisiana Board of Veterinary Medicine (the “*Board*”) has proposed to amend LAC 46: LXXXV §§1007, 1011, 1025, 1039, 1051, 1057, and 1063 regarding the Rules of Professional Conduct (collectively the “*Proposed Rules*”). The Board published a Notice of Intent to promulgate the Proposed Rules in the Louisiana Register on July 20, 2024.¹ The notice invited written public comments and requests for oral presentation, argument, or a public hearing through August 9, 2024.² The Board received no comments during the public comment period.

Pursuant to La. R.S. 49:260, the Board submitted the Proposed Rules to the Louisiana Department of Justice’s Occupational Licensing Review Program (the “*OLRP*”) on August 14, 2024. The OLRP reviews proposed occupational regulations of participating state occupational licensing boards.³ The OLRP initiated review on August 20, 2024. The OLRP invited public comments on the Proposed Rules through September 6, 2024 and received no comments. As set forth below, the OLRP has determined the Board’s proposed amendments to LAC LXXXV §§1007, 1011, 1025, 1039, 1051, 1057, and 1063 adhere to clearly articulated state policy but are not occupational regulations with reasonably foreseeable anti-competitive effects requiring input from OLRP.

II. Analysis

A. The Board’s Statutory Authority

¹ Louisiana Register, Vol 50, No 7 p. 1015-1017

² Id. P 1016

³ LA RS 49:260 (B)

The Board is a state regulatory body created “to promote the public health, safety, and welfare by safeguarding the people of this state against incompetent, dishonest, or unprincipled practitioners of veterinary medicine.”⁴

The Board has been granted the statutory authority to adopt, amend, or repeal all rules and regulations necessary to serve its purpose, including establishing standards of professional conduct for the practice of veterinary medicine, in accordance with the provisions of the APA.⁵

B. Proposed LAC 46:LXXXV §§1007, 1011, 1051, and 1063 Regarding Rules of Professional Conduct

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.”⁶ 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).⁷ 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.⁸ The Board proposes wording and/or stylistic changes to LAC 46: LXXXV §§1007, 1011, 1051, and 1063 that do not alter the intent or substantive meaning of the existing regulations. These rules 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.

C. Proposed LAC 46:LXXXV §1025 Regarding Display of Degree

The proposed changes increase what a licensed veterinarian may display by allowing for the display of a college degree, even if the degree obtained is non-veterinary. However, the proposed change prohibits the display of a certificate or title pertaining to veterinary medicine granted by institutions not approved by the American Veterinary Medical Association or the Board. While this rule governs the practice requirements of the Veterinary Medicine, it does not have any reasonably foreseeable anti-competitive effects that would limit entrance into or the continued practice of veterinary medicine. Therefore, because this rule does not require input from the OLRP pursuant to LA RS 49:260, the Board may proceed with promulgation of the amendment in accordance with the Louisiana APA.

D. Proposed LAC 46:LXXXV §1039 Regarding Conduct of One’s Practice/Administration of Oral Anesthesia and Euthanasia procedures

The Board recommends amending §1039 (E) to allow for the oral consent of an animal owner or their authorized agent in a non-emergency situation, when practical, for the administration of anesthesia when written consent is unable to be obtained. This occupational regulation expands the scope of the current rule, while still serving to protect the state against those that may be unqualified to practice veterinary medicine. The Board has the authority to adopt or amend rules

⁴ LSA-R.S. 37:1511

⁵ LSA-R.S. 37:1518 (9)

⁶ LSA-R.S. 49:260 (G) (4)

⁷ LSA-R.S. 49:951 (8)

⁸ Black’s Law Dictionary, 12th Edition p. 116

governing the professional conduct for the practice of veterinary medicine. Because this amendment extends the authority of the practitioner to administer anesthesia in non-emergent situations with written and/or oral consent and there are no foreseeable anti-competitive effects, the board may promulgate this amendment in accordance with the APA.

The Board further recommends adopting §1039 (F) governing the euthanasia procedure of licensed veterinarians requiring the veterinarian to obtain a euthanasia consent form executed by the animal owner or their authorized agent, prior to the commencement of the procedure. Because the Board is authorized to create rules promoting the health, safety, and welfare of the people against incompetent, dishonest, or unprincipled practitioners of veterinarian medicine⁹, the Board has the statutory authority to create rules expanding the requirements for administration of euthanasia. However, this proposed rule does not have any foreseeable anti-competitive effects, and as such, the Board may proceed with promulgation in accordance with the APA.

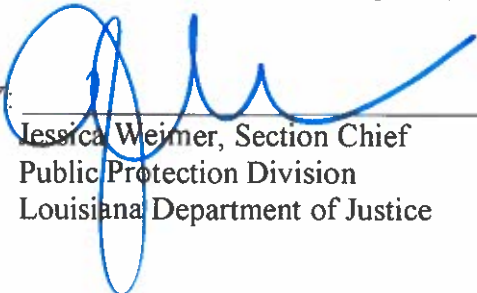
E. Proposed LAC 46:LXXXV §1057 Regarding Advertising

The Board proposes enacting §1057 (C) (4) prohibiting a veterinarian from using any client details or photographs in social media posts without permission of the client. While limiting the actions a veterinary practitioner may take regarding advertising, this rule clearly promotes the safety and welfare of the people of the state within the Board’s statutory authority. However, it does not have any reasonably foreseeable anti-competitive effects requiring input from the OLRP. Therefore, the board may proceed with promulgation of this rule in accordance with the APA.

III. Determination

The Board is a state regulatory body created to govern the professional conduct of the members of the veterinary profession in the state of Louisiana.¹⁰ The Board holds the statutory authority to adopt, amend, or repeal all rules necessary to ensure the standards of professional conduct for the practice of veterinary medicine are met and upheld.¹¹ The proposed rules are within the Board’s statutory authority and adhere to clearly articulated state policy. However, upon review, the OLRP has determined the proposed rules do not have any reasonably foreseeable anticompetitive effects on the practice of veterinary medicine. As such, the board may proceed with promulgation of the proposed rules without further input from the OLRP and in accordance with the APA.

LOUISIANA DEPARTMENT OF JUSTICE
OCCUPATIONAL LICENSING REVIEW PROGRAM

BY: 

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⁹ LSA-R.S. 37:1511

¹⁰ LAC 46:LXXXV § 1001 (A)

¹¹ LSA-R.S. 37:1518 (9)