



June 10, 2025

Jamie S. Doming
Executive Director
Louisiana Board of Professional Licensed Counselors
11410 Lake Sherwood Avenue North, Suite A
Baton Rouge, LA 70816

Re: Concerns Regarding § 505 – Teletherapy Guidelines for Registrants and Licensees

Dear Ms. Doming:

On behalf of ATA Action, I am writing to express our organization's concerns regarding the promulgation of Section 505 of the Louisiana Administrative Code relating to teletherapy guidelines for licensed counselors.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

As currently drafted, the proposed regulation imposes requirements we believe lack clear statutory authority and functionally restrict access to care through arbitrary administrative burdens.

First, there appears to be no statutory basis authorizing the Board to implement a registration scheme that differentiates between counseling services delivered via teletherapy and those delivered in person. While La. R.S. 37:1271 grants the *Louisiana State Board of Medical Examiners* the authority to impose additional licensure requirements on *physicians* practicing telemedicine, no similar statute grants the *Licensed Professional Counselor's Board* the same authority to impose additional licensure requirements on *therapists*.

Moreover, the proposed section 505 asserts that “teletherapy is a specialty area” (*see* § 505(E)) and any “nonresident of Louisiana who wishes to provide teletherapy services in Louisiana must have approval from the board” (*see* § 505(D)). While misunderstanding the construction of the Louisiana Administrative Code may be a valid basis for the proposed telehealth registration scheme, combining the determinations that “teletherapy is a specialty area” and “any nonresident

of Louisiana who wishes to provide teletherapy services in Louisiana must have approval from the board” invokes antitrust issues similar to *FTC v. North Carolina Board of Dental Examiners*.

FTC v. North Carolina Board of Dental Examiners clarified that state licensing boards composed of active market participants—such as practicing professionals regulating their own field—must be actively supervised by the state to qualify for antitrust immunity. In that case, the North Carolina Board of Dental Examiners, dominated by active market participants, sent cease and desist letters to non-dentist teeth whitening providers, effectively excluding them from the market. The Supreme Court held that because the board was made up of economic actors who stood to benefit from limiting competition and operated without state active state oversight, their actions were subject to federal antitrust laws.

The board’s proposed rule, requiring out-of-state counselors to obtain board approval before providing services to patients in Louisiana, raises similar concerns. By placing additional administrative barriers on out-of-state providers, the rule makes it harder for them to compete with in-state counselors, particularly in telehealth settings where geographic boundaries are less relevant. The requirement may deter otherwise qualified professionals from entering the Louisiana market, reduce patient choice, limit access to specialized or lower cost care, and interrupt ongoing care for Louisiana residents. Absent clear statutory authority, such a restriction could be considered anticompetitive unless it is clearly articulated as state policy. However, given the lack of statutory authority to implement the proposed rule, state policy appears absent.

Second, the requirement that all licensees who wish to treat clients located outside of Louisiana “document all relevant regulations” from the patient’s home state has no grounding in Louisiana law. Moreover, it is unclear by what standard the Board uses to evaluate whether a licensee has sufficiently “documented” such regulations, or what qualifies as an adequate understanding of out-of-state law. Furthermore, the rule raises serious enforcement questions: what happens if a practitioner inadvertently overlooks or misunderstands a regulation from another state? Would such an omission constitute grounds for disciplinary action in Louisiana? Without clear direction, the rule places therapists in a legally ambiguous situation subject to penalties outside their expertise. Rather than diverting therapists toward arbitrary administrative tasks, their time and expertise would be better spent delivering care to patients in need.

Finally, there is no statutory authority granting the Board power to impose additional continuing education requirements specifically for teletherapy. Counseling services delivered via telehealth do not inherently differ in quality, ethical obligation, or therapeutic impact to justify separate educational mandates. Multiple studies have shown that therapy services delivered via telehealth are just as safe and effective as therapy services delivered in person.¹ In the absence of evidence

¹ See, e.g., Bellanti, D. M., Kelber, M. S., Workman, D. E., Beech, E. H., & Belsher, B. E. (2022). Rapid review on the effectiveness of telehealth interventions for the treatment of behavioral health disorders. *Military Medicine*, 187(5–6), e577–e588. <https://doi.org/10.1093/milmed/usab318>; Lin, T., Heckman, T. G., & Anderson, T. (2022). The efficacy of synchronous teletherapy versus in-person therapy: A meta-analysis of randomized clinical



that such distinctions are necessary for patient safety, these requirements appear to be discriminatory toward telehealth as a modality of care.

For all these reasons, we encourage you to consider changes to address our concerns in the interest of patient access to care and continued innovation. Please let us know if there is anything that we can do to assist you in your efforts to adopt practical telehealth policy in Louisiana. If you have any questions or would like to engage in additional discussion regarding the telehealth industry's perspective, please contact me at kzebley@ataaction.org.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", with a stylized flourish at the end.

Kyle Zebley
Executive Director
ATA Action

trials. *Clinical Psychology: Science and Practice*, 29(2), 167–178. <https://doi.org/10.1037/cps0000056>; McClellan, M. J., Osbaldiston, R., Wu, R., Yeager, R., Monroe, A. D., McQueen, T., & Dunlap, M. H. (2022). The effectiveness of telepsychology with veterans: A meta-analysis of services delivered by videoconference and phone. *Psychological Services*, 19(2), 294–304. <https://doi.org/10.1037/ser0000522>.