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To: Ms. Emily DeAngelo
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From: Jessica Weimer
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Occupational Licensing Review Program

Date: September 8, 2025

Subject: Louisiana State Board of Social Work Examiners
Proposed Amendment to LAC 46:XXV.901 *et seq.* –Procedural Rules
LAC 46:XXV.1001 *et seq.* Procedural Rules for Disciplinary Hearings

I. SUMMARY

The Louisiana State Board of Social Work Examiners (the “**Board**”) proposes repealing Chapter 9, Procedural Rules, and redesignating the rules to Chapter 10, Procedural Rules for Disciplinary Hearings, (the “**Proposed Amendments**”).¹ The Proposed Amendments outline the rules, standards, and procedures for disciplinary hearings of the Board.²

The Board published a Notice of Intent to promulgate the Proposed Amendments on January 20, 2025.³ The Notice invited public comments through February 10, 2025 and set a public hearing on the proposed rules to be held on February 25, 2025.⁴

Pursuant to La. R.S. 49:260, the Board submitted the Proposed Amendments to the Louisiana Department of Justice’s Occupational Licensing Review Program (the “**OLRP**”) on June 23, 2025. The OLRP invited public comments on the Proposed Amendments from June 24, 2025 through July 8, 2025 and received no comments.

The OLRP reviews proposed occupational regulations of participating state occupational licensing boards.⁵ 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

¹ Louisiana Register Vol. 51 No. 1, January 20, 2025 at pgs. 119-140

² Id. at pg. 119

³ Id. at pg. 139

⁴ Id. at 1054

⁵ LA RS 49:260 (B)

⁶ LA R.S. 49:260 (G) (4)

(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 Proposed Amendments serve to ensure consistency with current law and clarify the applicable procedural requirements for disciplinary actions. As set forth below, the OLRP has determined the Board's Proposed Amendments to LAC 46:XXV.901 *et seq.* and 1001 *et seq.* are within the Board's statutory authority and adhere to clearly articulated state policy. The Board may proceed with promulgation in accordance with the Louisiana APA.

II. ANALYSIS

The Louisiana Social Work Practice Act (the “*Act*”), La. R.S. 37:2701 *et seq.* was enacted in order to safeguard the public health, safety, and welfare against unauthorized, unqualified, and improper practice of social work. The Board was established as a regulatory authority authorized to adopt and revise rules necessary for the enforcement of the Act, establish ethical standards of practice, and adopt standards for supervision to meet statutory requirements.⁹

A. STATUTORY AUTHORITY

a. Proposed LAC 46:XXV.901 et seq.- Procedural Rules

The Board proposes to repeal the entirety of Chapter 9 and redesignate its provisions under a newly promulgated Chapter 10, entitled “Procedural Rules for Disciplinary Hearings.” Pursuant to its statutory authority under the Social Work Practice Act, the Board is empowered to adopt, amend, and repeal rules and regulations as may be necessary to implement and enforce the Act.¹⁰ Accordingly, the Board possesses the statutory authority to repeal Chapter 9- Procedural Rules.

b. Proposed LAC 46:XXV.1001 et seq. – Procedural Rules for Disciplinary Hearing

The Board proposes to repeal Chapter 9 in its entirety and redesignate its provisions as Chapter 10, entitled “Procedural Rules for Disciplinary Hearings.” This redesignation is intended to ensure consistency with current law and to clarify the applicable procedural requirements for disciplinary actions against social workers. In light of the extensive revisions undertaken, the repeal of Chapter 9 and the promulgation of Chapter 10 are necessary to provide a comprehensive and updated framework governing disciplinary proceedings.

The Board proposes to adopt the following sections within Chapter 10:

- LAC 46:XXV.1001 [Formerly 901]- Authority
- LAC 46:XXV.1003- Purpose and Construction
- LAC 46:XXV.1005- Simplification and Accessibility

⁷ LA R.S. 49:951 (8)

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

⁹ LA R.S. 37:2705

¹⁰LA R.S. 37:2705 (C)(1)

- LAC 46:XXV.1007- Duty to Maintain Contact Information; Notification to Applicant or Licensee; Service
- LAC 46:XXV.1009-Complaint Organization
- LAC 46:XXV.1011-Consideration of Recommended and Provisional Dismissals; Declining Prosecution
- LAC 46:XXV.1013-Prerequisites for Institution of Administrative Proceedings; Showing of Compliance
- LAC 46:XXV.1015- Institution of Administrative Proceedings
- LAC 46:XXV.1017- Right to Counsel; Notice of Representation
- LAC 46:XXV.1019- Pre-Hearing Motions and Other Filings
- LAC 46:XXV.1021- Discovery
- LAC 46:XXV.1023- Hearing Panels
- LAC 46:XXV.1025- Hearing Officer
- LAC 46:XXV.1027- Recusal
- LAC 46:XXV.1029- Open Meetings
- LAC 46:XXV.1031- Pre-Hearing Conference
- LAC 46:XXV.1033- Record of Adjudication
- LAC 46:XXV.1035- Conduct of Adjudicative Hearing
- LAC 46:XXV.1037- Evidence and Proof in Adjudicative Hearings
- LAC 46:XXV.1039- Notice of Generally Recognized Facts and Social Work Principles
- LAC 46:XXV.1041- Post-Hearing Filings; Submission of Matter
- LAC 46:XXV.1043- Decision on Adjudicative Hearing
- LAC 46:XXV.1045- Rehearing
- LAC 46:XXV.1047- Administrative Appeal
- LAC 46:XXV.1049- Informal Resolution through Consent Discipline
- LAC 46:XXV.1051- Voluntary Relinquishment of Credential in Lieu of Discipline
- LAC 46:XXV.1053- Default
- LAC 46:XXV.1055- Withdrawal of Complaint
- LAC 46:XXV.1057-Summary Suspension and Other Interim Action
- LAC 46:XXV.1059- Meetings and Hearings by Video Conference
- LAC 46:XXV.1061- Letter of Concern or Education; National Database Reporting

The proposed repeal of Chapter 9 and promulgation of Chapter 10 are intended to modernize and clarify the procedural framework governing disciplinary matters before the Board. The revisions align the Board's rules with current statutory requirements, strengthen due process protections for licensees, and enhance administrative efficiency in the receipt, investigation, and adjudication of complaints. The proposed sections provide comprehensive guidance on complaint origination, pre-hearing and hearing procedures, evidentiary standards, sanctions, appeals, and related matters, thereby ensuring consistency, transparency, and fairness in disciplinary proceedings.

The Board is empowered to adopt, amend, and repeal rules and regulations as may be necessary to implement and enforce the provisions of the Act.¹¹ Additionally, the Board is authorized to deny, approve, revoke, suspend, and renew the license of a licensed clinical social worker and to conduct hearings on charges seeking revocation or suspension of a certificate or license.¹² The Board may also institute disciplinary proceedings and shall prosecute and enjoin all persons found to be in violation of the Act.¹³ Finally, the Board is required to maintain a complete record of all proceedings.¹⁴ Accordingly, the Board possesses the statutory authority to promulgate this Chapter.

B. ANTICOMPETITIVE EFFECTS

The Proposed Amendments align with current statutory authority, clarify the Board's enforcement powers, ensure due process and fair adjudication for licensees, increase accessibility for both licensees and complainants, modernize communication requirements, and provide clearer processes and oversight for complaint handling. They add opportunities to avoid unnecessary litigation, clarify procedural rules for filing, notice, and response, establish a more structured litigation process, add professional oversight, increase impartiality safeguards, balance public records with confidentiality protections, strengthen adjudicative mechanisms, enhance the Board's public protection authority, and modernize procedures for efficiency.

Disciplinary actions may operate as barriers to market participation insofar as they impose significant financial burdens, inflict reputational harm, interrupt a licensee's ability to engage in practice, and create a lasting stigma that may restrict future employment opportunities or impede reciprocity in other jurisdictions. The procedural complexity inherent in disciplinary proceedings can further disadvantage solo practitioners and small entities with limited resources. Accordingly, it is essential that disciplinary measures be applied in a consistent and proportionate manner to avoid conferring unfair competitive advantages upon certain practitioners and to preserve competition and consumer choice within the market.

In general, Chapter 10 introduces more detailed requirements regarding pre-hearing motions, discovery obligations, panel composition, and written submissions. While these added formalities may impose higher compliance costs and legal expenses on individual licensees, potentially burdening small or solo practitioners, they are necessary to safeguard the public health, safety, and welfare. Clear and structured due process procedures are essential to ensure that licensees are both competent and accountable. Thus, even though the increased procedural complexity may indirectly disadvantage smaller providers, it remains consistent with Louisiana's clearly articulated state policy of protecting the public's from the unqualified, unauthorized, or improper practice of social work.

Particularly, section 1049 authorizes the resolution of complaints through consent discipline, allowing licensees to admit to certain conduct and accept sanctions without a full evidentiary

¹¹LA R.S. 37:2705 (C)(1)

¹²LA R.S. 37:2705 (C)(2)(3)

¹³LA R.S. 37:2705 (C)(3)(4)

¹⁴LA R.S. 37:2705 (C)(4)

hearing. This process may create unequal bargaining dynamics for licensees who may feel pressured to accept unfavorable terms to avoid the costs and uncertainty of formal adjudication. However, consent discipline aligns with the clearly articulated state policy of protecting the public by promoting efficiency, accountability, and rehabilitation. It enables the Board to resolve matters quickly, conserve resources, and ensures timely corrective action, thereby safeguarding the health, safety, and welfare of the public.

The Board proposes enacting §1051 to authorize licensees to voluntarily relinquish their credential in lieu of undergoing full disciplinary proceedings. While this provision serves the public interest by promptly removing from practice those practitioners who acknowledge misconduct, impairment, or an inability to practice competently, it also carries potential competitive implications. Specifically, the option may encourage or pressure practitioners with limited financial or legal resources to relinquish their credential rather than defend themselves in a contested proceeding, thereby reducing competition and eliminating providers who might otherwise remain in practice subject to remedial measures. Nevertheless, voluntary relinquishment advances state policy by providing an efficient mechanism to safeguard consumers without the delay or expense of extended litigation.

Section 1053 provides that licensees who fail, without good cause, to respond to notices sent to their address of record by U.S. Certified or Registered Mail risk losing their credentials by default. This rule may have a reasonably foreseeable anticompetitive effect, as smaller or solo practitioners lacking administrative support could be disproportionately removed from practice due to procedural default rather than substantive adjudication. However, the provision is consistent with Louisiana's clearly articulated policy under La. R.S. 37:2701 et seq. to protect the public health, safety, and welfare. Strict default procedures ensure that practitioners cannot evade accountability through inaction or delay, and allow the Board to promptly remove unresponsive or potentially unsafe licensees from practice. Accordingly, while §1053 may indirectly disadvantage certain providers, it remains a necessary mechanism for advancing the State's sovereign interest in public protection.

Pursuant to La. R.S. 37:2716(B)(6), §1057 authorizes the Board to summarily suspend or impose interim restrictions on a licensee where continued practice presents an imminent risk to public health, safety, or welfare. Although such interim measures serve an important public protection function, they may also temporarily reduce consumer choice and inadvertently advantage unaffected competitors by removing practitioners from the market prior to full adjudication. Moreover, even if later overturned, a summary suspension can result in lasting reputational and financial harm to the licensee. Nevertheless, this authority reflects Louisiana's clearly articulated state policy of protecting the public welfare by permitting immediate intervention in emergency circumstances, thereby ensuring that potentially unsafe practitioners are not permitted to continue practicing while adjudicative proceedings are pending.

While the majority of the Proposed Amendments do not constitute occupational regulations with reasonably foreseeable anticompetitive effects, some provisions may operate as barriers to market participation. However, the Proposed Amendments adhere to Louisiana's clearly articulated state

policy, as discussed above, and are within the scope of the Board's statutory authority. Accordingly, the proposed amendments are approved for adoption as drafted.

III. DETERMINATION

The Board is a state regulatory body created by the Louisiana Social Work Practice Act in order to safeguard the public health, safety, and welfare against unauthorized, unqualified, and improper practice of social work.¹⁵ The Board was established as a regulatory authority authorized to adopt and revise rules necessary for the enforcement of the Act, establish ethical standards of practice, and adopt standards for supervision to meet statutory requirements.¹⁶ Further, the Board is authorized to deny, approve, revoke, suspend, and renew the license of a clinical social worker and conduct hearings on charges seeking revocation or suspension of a certificate or license.¹⁷ The Board may also institute disciplinary proceedings and prosecute all persons found in violation of the Act.¹⁸

The Proposed Amendments to LAC 46:XXV.901 *et seq.* and 1001 *et seq.* are within the Board's statutory authority and adhere to clearly articulated state policy. Accordingly, the Board may proceed with promulgation of this rule in accordance with the Louisiana Administrative Procedure Act without further input from the OLRP.

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¹⁵ LA R.S. 37:2701

¹⁶ LA R.S. 37:2705

¹⁷ LA R.S. 37:2705 (C)(2)(3)

¹⁸ LA R.S. 37:2705 (C)(3)(4)