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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 12, 2025

Subject: Louisiana State Board of Social Work Examiners  
Proposed Amendment to LAC 46:XXV.1101 *et seq.* –Procedural Rules for Other Hearings

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**I. SUMMARY**

The Louisiana State Board of Social Work Examiners (the “**Board**”) proposes enacting LAC 46:XXV.1101 *et seq.* entitled “Procedural Rules for Other Hearings” (the “**Proposed Amendments**”).<sup>1</sup> The Proposed Amendments establish the rules, standards, and procedures governing non-disciplinary hearings of the Board.<sup>2</sup>

The Board published a Notice of Intent to promulgate the Proposed Amendments on January 20, 2025.<sup>3</sup> 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.<sup>4</sup>

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 is tasked with reviewing proposed occupational regulations of participating state occupational licensing boards.<sup>5</sup> 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.”<sup>6</sup> The Louisiana Administrative Procedure Act (“**APA**”) defines a rule as an agency (Board) requirement for conduct or action prescribing the procedure or practice

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

<sup>2</sup> Id. at pg. 119

<sup>3</sup> Id. at pg. 139

<sup>4</sup> Id. at 1054

<sup>5</sup> LA RS 49:260 (B)

<sup>6</sup> LA R.S. 49:260 (G) (4)

requirements of the agency (Board).<sup>7</sup> 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.<sup>8</sup>

The Proposed Amendments are intended to ensure consistency with current law and clarify the procedural requirements applicable to non-disciplinary hearings. As set forth below, the OLRP has determined the Board's Proposed Amendments to LAC 46:XXV.1101 *et seq.* are within the Board's statutory authority and adhere to clearly articulated state policy.

## **II. ANALYSIS**

The Louisiana Social Work Practice Act (the “*Act*”), La. R.S. 37:2701 *et seq.* was enacted to safeguard the public health, safety, and welfare against unauthorized, unqualified, and improper practice of social work. The Board was established as the regulatory authority empowered to adopt and revise rules necessary to enforce the Act, establish ethical standards of practice, and adopt standards to meet statutory requirements.<sup>9</sup> Licensing requirements are potential barriers to market entry and reduce competition; therefore, the Proposed Amendments are properly considered occupational regulations with reasonably foreseeable-anticompetitive effects. However, qualifications for licensing requirements support the Board's duty to safeguard the public health, safety, and welfare of the people of the state against unauthorized, unqualified, and improper practice of social work.<sup>10</sup>

### **A. Proposed LAC 46:XXV.1101 Compliance Hearing; purpose; scope; burden of proof**

Proposed §1101 provides applicants or licensees whose credential or renewal was denied an opportunity to petition for a compliance hearing. The hearing allows the applicant or licensee to present documentary evidence and sworn testimony to prove they meet the lawful requirements for credentialing. The applicant or licensee bears the burden of proof to demonstrate compliance with the criteria for initial application, renewal, or timely submission.

When qualified individuals are denied entry or renewal and are unable to satisfy the burden of proof, the number of credentialed practitioners in the market decreases, which may drive up prices for consumers and reduce service availability. Louisiana R.S.37:2710 (G) grants applicants the right to request a compliance hearing following the rejection of an application. Compliance hearings protect the public welfare by confirming that licensees meet minimum competence and fitness standards while also providing due process by offering applicants a fair opportunity to contest denials.

Accordingly, the proposed LAC 46:XXV.1101 is within the Board's statutory authority and adheres to clearly articulated state policy. The Board may proceed with promulgation of this rule in accordance with the APA.

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<sup>7</sup> LA R.S. 49:951 (8)

<sup>8</sup> Black's Law Dictionary, 12<sup>th</sup> Edition p. 116

<sup>9</sup> LA R.S. 37:2705

<sup>10</sup>LA R.S. 37:2701

## **B. Proposed LAC 46:XXV.1103 Petition for Compliance Hearing**

Section 1103 sets forth the procedure by which an applicant or licensee may petition for a compliance hearing following the denial of an application or renewal. Under the proposed rule, any timely written request is accepted as a petition, provided it is filed within thirty (30) days of notice of denial and states specific objections to the denial. The administrator may reject petitions that are untimely or defective, but must grant a seven (7) day period to cure defects other than untimeliness. All accepted petitions are assigned a compliance hearing number for tracking purposes.

While, the 30-day filing deadline may present a barrier for applicants who require additional time to gather required documentation, obtain counsel, or address logistical challenges, the petition process serves as a meaningful pathway to licensure. Missing the deadline results in forfeiture of the right to a hearing, thereby excluding the applicant from the market; however, the process aligns with the Board's statutory duty to safeguard the public health, safety, and welfare by credentialing only qualified individuals. The Board is authorized to approve, deny, revoke, suspend, or renew licenses<sup>11</sup> and promulgate rules and regulations regarding the applicant's right to a compliance hearing.<sup>12</sup>

By allowing applicants to petition for a compliance hearing following denial of a license, the Board provides due process and reduces barriers to market participation by offering a structured and transparent mechanism to challenge credentialing decisions. The petition process advances state policy by (i) ensuring due process through a clear, structured mechanism to contest denials, (ii) encouraging efficiency and finality by setting deadlines and preventing indefinite disputes, and (iii) promoting procedural integrity by requiring petitions to be specific and orderly, which facilitates a fair hearing and record development.

Accordingly, the proposed rule §1103 is within the Board's statutory authority and adheres to clearly articulated state policy. The Board may proceed with promulgation of the rule in accordance with the APA.

## **C. Proposed LAC 46:XXV.1105 Docketing of Compliance Hearings; Panels: Hearing Officer**

Proposed section 1105 governs the scheduling and conduct of compliance hearings. Upon receipt of a petition, the administrator must docket the compliance hearing for the next regularly scheduled board meeting unless the petition is received within seven days of that meeting, in which case it may be docketed for the following meeting. Compliance hearings are conducted before a limited panel, and if multiple hearings are docketed for the same date, the administrator may constitute a second panel and randomly assign cases between the panels. Prior to each hearing, the limited panel designates a hearing officer to administer oaths, maintain order, set new hearing dates as necessary, and rule on other procedural matters.

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<sup>11</sup> LA R.S. 37:2705(C)

<sup>12</sup> LA R.S. 37:2710(G)

Although tying hearings to the Board's regular meeting schedule could delay an applicant's ability to obtain or retain a credential, particularly when petitions are received shortly before a scheduled meeting, the rule is consistent with state policy objectives. It ensures (i) the orderly and efficient adjudication of compliance hearings ensuring that credential decisions are reviewed systematically, (ii) due process and impartiality through random case assignment when multiple panels are used and the appointment of a hearing officer to maintain fairness and decorum, and (iii) consistency and predictability by linking hearings to established board meeting dates. As such, this rule is within the statutory authority of the Board and adheres to clearly articulated state policy. The Board may proceed with promulgation in accordance with the APA.

#### **D. Proposed LAC 46:XXV.1107 Compliance Hearing; Record**

Proposed LAC 46:XXV.1107 establishes requirements for maintaining compliance-hearing records. The administrator must maintain a record of each compliance hearing, which consists of the applicant or licensee's application, denial letter, submitted documents, and, if prepared, the hearing transcript. Hearings may be transcribed by a court reporter; however, if the transcription is requested by the applicant or licensee, they must be responsible for paying the court reporter's fees.

Under LA R.S. 49:978.1, a person aggrieved by a final decision or order is entitled to judicial review in the district court of the parish in which the agency is located within thirty days after the Board's decision.<sup>13</sup> Requiring the applicant to bear the cost of a transcript may present a financial barrier that deters some applicants from requesting one, which could limit their ability to pursue further appeals or judicial review. If no transcript is created, the record may rely solely on documentary evidence, potentially resulting in an incomplete record and a diminished ability to challenge the decision effectively. This could leave qualified practitioners excluded from the market longer, thereby reducing competition and service availability.

However, this rule advances legitimate state policy by ensuring administrative transparency, supporting due process, and allocating costs equitably by placing the expense of the transcription on the party requesting it. The Board is authorized to adopt rules for proceedings that enable it to fully determine the facts in each matter before it.<sup>14</sup> Accordingly, the proposed amendment adheres to clearly articulated state policy and is within the Board's statutory authority. Thus, the Board may proceed with promulgation in accordance with the Louisiana APA.

#### **E. Proposed LAC 46:XXV.1109 Compliance Hearing; Right to Counsel**

Proposed §1109 affirms that applicants and licensees have the right to be represented by legal counsel during a compliance hearing. It further authorizes the hearing panel to consult with its general counsel on legal issues that arise during the hearing. Allowing representation functions as an important due process safeguard ensuring that applicants have the opportunity to be assisted by counsel in presenting evidence, making arguments, and protecting their rights. The panel's ability to consult with its counsel promotes procedural integrity and consistency by helping ensure that

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<sup>13</sup> LA R.S. 37:2717(F)

<sup>14</sup> LA R.S. 37:2717(E), LA R.S. 37:2710(G)

decisions comply with governing law, reducing the risk of arbitrary or unlawful action, and fostering uniform interpretation of statutes and rules. These safeguards collectively protect public health, safety, and welfare by ensuring fair and legally sound adjudications.

This proposed amendment is within the Board's statutory authority and adheres to clearly articulated state policy. The Board may proceed with promulgation in accordance with the Louisiana APA.

#### **F. Proposed LAC 46:XXV.1111 Compliance Hearing; Decision**

Proposed §1111 governs how and when compliance-hearing decisions are made and communicated. Once the applicant or licensee has presented all evidence, the hearing is deemed concluded and no additional evidence or testimony will be accepted. The panel must issue a written decision with findings of fact and conclusions of law within fifteen (15) business days and deliver the decision to the applicant via certified or registered mail.

This rule supports state policy objectives by ensuring procedural integrity through the requirement for written findings and conclusions of law, which enhances transparency and creates a clear record for judicial review. It promotes timely resolution by imposing a 15-business day deadline to prevent unnecessary delays and preventing continuous submission of new evidence that could delay final resolution, thus finalizing the evidentiary record. As such, this proposed amendment is within the Board's statutory authority and adheres to clearly articulated state policy. The Board may proceed with promulgation of this rule in accordance with the Louisiana APA.

#### **G. Proposed LAC 46:XXV.1113 Compliance Hearing: Appeal from Decision of Limited Panel**

Proposed §1113, establishes the process for appealing an adverse compliance-hearing decision. Applicants or licensees must file a written notice of appeal within ten (10) calendar days of the mailing of the decision, stating the grounds for appeal. Timely appeals are docketed by the administrator for the next regularly scheduled board meeting, or for the following meeting if the notice is received within seven days of the upcoming meeting. Appeals are conducted on the record, limited to the evidence, findings, and conclusions from the compliance hearing, along with any written submissions. The chair deems the appeal submitted once the en banc panel has had sufficient time to review, and the panel must render a written decision within thirty (30) calendar days of submission, transmitting the decision to the applicant or licensee in the same manner as the original decision.

This rule is consistent with Louisiana Code of Procedure article 2164, which mandates that appellate courts render judgments based solely on the record, precluding the introduction of new evidence. Similarly, federal procedural rules allow for the introduction of newly discovered evidence only under limited circumstances—where the evidence was discovered after the proceeding, could not have been discovered earlier through due diligence, is not merely cumulative or impeaching, and would likely change the outcome of the case.<sup>15</sup> Further, the Board has the authority to adopt rules and regulations necessary to safeguard the public against unauthorized,

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<sup>15</sup> Fed R. Civ. P. 59

unqualified, or improper practice of social work.<sup>16</sup> As such, this proposed amendment is within the Board's statutory authority.

This rule advances Louisiana's state policy objectives by providing a due-process mechanism for review of adverse decisions by a full panel, promoting finality and efficiency through clear filing and decision deadlines, and ensuring consistency by limiting appeals to the existing record, thereby preventing endless litigation and delay. Accordingly, the proposed amendment adheres to clearly articulated state policy. The Board may proceed with promulgation in accordance with the Louisiana APA.

#### **H. Proposed LAC 46:XXV.1115 Miscellaneous Orders and Rules to Show Cause**

The Board proposes adding §1115, which grants the Board authority to issue orders and rules to show cause when necessary to protect the public health, safety, or welfare, or otherwise to fulfill its duties under the Social Work Practice Act or this Chapter. Importantly, §1115(B) expressly prohibits using this rule to circumvent processes described in LA R.S. 37:2727(G) or the procedures in this Chapter.

Although granting the Board broad discretion to issue orders or rules to show cause could permit preemptive or restrictive actions that temporarily or permanently exclude applicants or licensees from practice prior to full adjudication, potentially reducing market participation, this rule advances legitimate state policy objectives. It enables swift intervention when public health, safety, or welfare is at risk, ensures compliance with the Act by compelling licensees to justify conduct that may endanger the public or violate standards, and preserves procedural integrity by prohibiting the Board from using this authority to bypass due-process protections otherwise afforded under the statute and rules.

This proposed §1115 is within the Board's statutory authority and adheres to clearly articulated state policy. However, OLRP was unable to locate La. R.S. 37:2727(G) as referenced in the proposed rule. The Social Work Practice Act consists of LA R.S. 37:2701 through LA R.S. 37:2724, with LA R.S. 37:2731 establishing the Social Work Licensure Compact. The OLRP recommends that the Board revise this amendment to reference the correct statutory provision prior to promulgation in order to ensure accuracy and legal clarity.

#### **I. Proposed LAC 46:XXV.1117 Declaratory Rulings**

Proposed §1117 establishes a formal process for individuals subject to the Louisiana Social Work Practice Act to request a declaratory ruling on the applicability of specific statutes or rules. A petition must include the petitioner's name, the statute(s) or rule(s) at issue, a concise statement of relevant facts and circumstances, and a specific request for a ruling. The administrator docket petitions for the next regularly scheduled board meeting (or the following meeting if received within seven days of the next meeting). Petitions are considered by the Board in open session, and rulings are issued by majority vote, reduced to writing, and indicate which board members comprised the majority when the vote is not unanimous. The Board may deny petitions that fall outside its jurisdiction, are factually insufficient, or concern ongoing disciplinary matters,

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<sup>16</sup> LA R.S. 37:2701, LA R.S. 37:2705(C)

litigation, or pending applications. A written decision must be issued within sixty (60) days of the hearing and becomes part of the public record. Informal correspondence seeking clarification is not treated as a petition unless it meets the formal requirements of this section.

Although §1117 creates a transparent process, it could potentially delay regulatory clarity for up to sixty days, which may discourage market entry or investment by practitioners uncertain about the legality of their conduct. The Board's discretion to deny petitions for being "incomplete or unclear" may function as a gatekeeping mechanism, preventing stakeholders from obtaining needed clarification. Furthermore, excluding petitions related to pending disciplinary matters or applications may leave licensees without a mechanism to resolve legal uncertainty during critical periods, potentially prolonging their inability to work.

Nevertheless, §1117 aligns with Louisiana's clearly articulated state policy by providing a formal mechanism to obtain authoritative guidance on the applicability of statutes and rules, thereby promoting consistent interpretation and compliance. The requirement that petitions be heard in open session and that all rulings be made public enhances transparency and ensures that declaratory rulings benefit the broader regulated community. The Board's authority to deny petitions outside its jurisdiction preserves administrative efficiency and prevents misuse of the process as a means to interfere with pending matters. Finally, the sixty-day decision deadline strikes a balance between timely resolution and allowing sufficient time for thoughtful deliberation.

The proposed amendment is within the Board's statutory authority and adheres with clearly articulated state policy. The Board may proceed with promulgation of the proposed amendment in accordance with the Louisiana APA.

### **III. DETERMINATION**

The Board is a state regulatory body created by the Louisiana Social Work Practice Act to safeguard the public health, safety, and welfare against the unauthorized, unqualified, and improper practice of social work. The Board is empowered to adopt and revise rules necessary for the enforcement of the Act, establish ethical standards of practice, and adopt supervision standards to meet statutory requirements. In addition, the Board is authorized to approve, deny, revoke, suspend, and renew licenses and to conduct hearings on charges seeking the revocation or suspension of a certificate or license.

The Proposed Amendments to LAC 46:XXV.1101 *et seq.* fall squarely within the Board's statutory authority and adhere to clearly articulated state policy. Accordingly, the Board may proceed with promulgation of §§1101, 1103, 1105, 1107, 1109, 1111, 1113, and 1117 in accordance with the APA without further input from the OLRP. However, the OLRP recommends modification of §1115 to reference the correct Louisiana Revised Statute, as discussed above, prior to final promulgation.

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