

REGULATION OF THE PSYCHOLOGY PROFESSION

LOUISIANA STATE BOARD OF EXAMINERS OF
PSYCHOLOGISTS



PERFORMANCE AUDIT SERVICES
ISSUED JUNE 1, 2022

**LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

LEGISLATIVE AUDITOR
MICHAEL J. "MIKE" WAGUESPACK, CPA

FIRST ASSISTANT LEGISLATIVE AUDITOR
ERNEST F. SUMMERVILLE, JR., CPA

DIRECTOR OF PERFORMANCE AUDIT SERVICES
KAREN LEBLANC, CIA, CGAP, MSW

AUDIT TEAM
EMILY DIXON, CIA, CGAP, CRMA, MBA
LAUREN PENDAS, CIA, CGAP, MA
STEVEN BRAILSFORD, MA

**FOR QUESTIONS RELATED TO THIS PERFORMANCE AUDIT, CONTACT
EMILY DIXON, PERFORMANCE AUDIT MANAGER,
AT 225-339-3800.**

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report is available for public inspection at the Baton Rouge office of the Louisiana Legislative Auditor and online at www.la.la.gov.

This document is produced by the Louisiana Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. Four copies of this public document were produced at an approximate cost of \$3.60. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31. This report is available on the Legislative Auditor's website at www.la.la.gov. When contacting the office, you may refer to Agency ID No. 9726 or Report ID No. 40210022 for additional information.

In compliance with the Americans With Disabilities Act, if you need special assistance relative to this document, or any documents of the Legislative Auditor, please contact Jenifer Schaye, General Counsel, at 225-339-3800.



LOUISIANA LEGISLATIVE AUDITOR
MICHAEL J. "MIKE" WAGUESPACK, CPA

June 1, 2022

The Honorable Patrick Page Cortez,
President of the Senate
The Honorable Clay Schexnayder,
Speaker of the House of Representatives

Dear Senator Cortez and Representative Schexnayder:

This report provides the results of our performance audit of the Louisiana State Board of Examiners of Psychologists (LSBEP). The purpose of this audit was to evaluate whether the Board effectively regulated the psychology profession during fiscal years 2019 through 2021.

We found that LSBEP has established regulatory processes that comply with state law and conform to most best practices. However, the Board needs to strengthen some aspects of its regulatory activities to better protect the public and ensure licensees comply with the Louisiana Psychology Practice Act.

In August 2007, state law granted LSBEP the authority to conduct background checks on individuals applying for initial or reinstatement licenses, but not on those renewing their licenses. In August 2008, LSBEP began conducting background checks on license applicants; however, we found that as of February 2022, 378 (44.1%) of 857 current licensees had not had a background check because they were licensed before August 2008.

In addition, LSBEP does not query the National Practitioner Data Bank (NPDB) for enforcement information when making licensure decisions; as a result, it could issue a license to an applicant who was disciplined in another state.

We found as well that during fiscal years 2019 through 2021, LSBEP received 71 complaints containing 152 allegations and closed 63 complaints that took an average of 338 days to resolve. However, LSBEP does not have internal timeframes for resolving complaints, and its process for tracking complaints does not record accurate and complete information. As a result, the Board cannot ensure it investigates and resolves complaints in a timely manner.

LSBEP also has not adopted a disciplinary matrix that aligns with regulatory best practices to ensure that disciplinary actions are consistent and appropriately escalated based on the number and/or severity of violations. In addition, LSBEP's disciplinary effectiveness may be

The Honorable Patrick Page Cortez,
President of the Senate
The Honorable Clay Schexnayder,
Speaker of the House of Representatives
June 1, 2022
Page 2

limited because it does not consistently track disciplinary actions, does not have the authority to impose fines as part of a graduated range of sanctions, and does not have a comprehensive process that includes timeframes for monitoring licensees' compliance with Board orders.

Additionally, we found that LSBEP did not report four (44.4%) of the nine adverse actions it issued during fiscal years 2019 through 2021 to the NPDB, as required by federal law. The nature of these cases included sexual harassment of clients, unprofessional conduct, treatment without informed consent, and substandard care, among other issues.

The report contains our findings, conclusions, and recommendations. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the Louisiana State Board of Examiners of Psychologists for its assistance during this audit.

Respectfully submitted,



Michael J. "Mike" Waguespack, CPA
Legislative Auditor

MJW/aa

LSBEP

Louisiana Legislative Auditor

Michael J. “Mike” Waguespack, CPA



Regulation of the Psychology Profession Louisiana State Board of Examiners of Psychologists

June 2022

Audit Control # 40210022

Introduction

We evaluated whether the Louisiana State Board of Examiners of Psychologists (LSBEP or Board) effectively regulated the profession of psychology during fiscal years 2019 through 2021 to ensure compliance with the Louisiana Psychology Practice Act.¹ LSBEP was established in 1964 as the regulatory agency responsible for licensing all individuals who engage in the practice of psychology and taking appropriate actions, such as suspending or revoking a license, if it identifies violations.² As of February 2022, LSBEP regulated 816 psychologists, 29 specialists in school psychology, and 12 provisional psychologists.³ We conducted this audit to determine whether LSBEP is meeting its mission of protecting the public and whether its processes ensure that licensees comply with the Louisiana Psychology Practice Act.

LSBEP was created to safeguard life, health, property, and the public welfare of this state, and to protect the people of this state against unauthorized, unqualified, and improper application of psychology.

Source: R.S. 37:2351

LSBEP is comprised of six members appointed by the governor, including five licensed psychologists and one consumer member. In addition, LSBEP has one full-time executive director who performs administrative functions and assists with licensing, monitoring, and enforcement responsibilities. LSBEP also contracts with two licensed psychologists as complaints coordinators who review, coordinate, and oversee the timeliness of complaint investigations; a private investigator; and contract attorneys who participate in the complaint process and/or advise the Board as needed. See Appendix C for a description of all LSBEP contracts for services in fiscal year 2021. Exhibit 1 summarizes LSBEP’s regulatory functions.

¹ Louisiana Revised Statute (R.S.) 37:2351, *et seq.*

² R.S. 37:2353

³ Provisional licensure is available to applicants who have completed all but one year of required supervised practice and have not yet taken required examinations, but otherwise meet all licensed psychologist requirements.

Exhibit 1 LSBEP Regulatory Functions	
Functions	Examples of Activities to Accomplish Functions
Licensing	<ul style="list-style-type: none"> • Review and approve initial and annual renewal applications for licensure • Verify licensees received the required 40 hours of continuing professional development for each biennial reporting period • Provide current licensee information to the public on its website
Monitoring	<ul style="list-style-type: none"> • Investigate complaints and other allegations of violations of the Louisiana Psychology Practice Act and/or Regulations • Monitor disciplined licensees for compliance with imposed conditions • Oversee licensees with Impaired Psychologist Procedure Agreements (IPPA)
Enforcement	<ul style="list-style-type: none"> • Discipline licensees who have been found to violate the Louisiana Psychology Practice Act and/or Regulations (e.g., probation, license suspension/revocation) • Report disciplined licensees to the National Practitioner Data Bank (NPDB) within 30 days as required by federal law • Disclose disciplinary actions taken against licensees on its website
Source: Prepared by legislative auditor's staff using information provided by LSBEP, state law, and federal law.	

LSBEP is funded solely through self-generated revenues. In fiscal year 2021, LSBEP's total revenue of \$354,975 included fees from license applications and renewals, examinations, license verifications, and replacement licenses. The majority of LSBEP's total expenses of \$391,500 in fiscal year 2021 were for salaries (\$228,650, or 58.4%) and professional services (\$103,902, or 26.5%). See Appendix D for a breakdown of LSBEP's revenues and expenses for fiscal years 2015 through 2021.

The objective of this audit was:

To evaluate LSBEP's regulation of the profession of psychology to ensure compliance with the Louisiana Psychology Practice Act.

The issues we identified are summarized on the next page and discussed in further detail throughout the remainder of the report. Appendix A contains LSBEP's response to this report, and Appendix B details our scope and methodology. Appendix C describes LSBEP's contracts for professional services in fiscal year 2021; Appendix D summarizes LSBEP's revenues, expenses, and net income (loss) for fiscal years 2015 through 2021; and Appendix E contains a flowchart of LSBEP's complaint process.

Objective: To evaluate LSBEP's regulation of the profession of psychology to ensure compliance with the Louisiana Psychology Practice Act.

Overall, we found that LSBEP has established regulatory processes that comply with state law and conform to most best practices. For example, LSBEP has conducted background checks on initial applicants for licensure since August 2008 and has established a process for investigating and resolving complaints. However, we found that LSBEP needs to strengthen some aspects of its regulatory activities to better protect the public and ensure licensees comply with the Louisiana Psychology Practice Act. Specifically, we identified the following:

- **In August 2007, state law granted LSBEP the authority to conduct background checks on individuals applying for initial or reinstatement licenses, but not on those renewing their licenses. In August 2008, LSBEP began conducting background checks on applicants; however, as of February 2022, 378 (44.1%) of 857 current licensees who were licensed prior to August 2008 do not have a background check.** In addition, LSBEP does not query the National Practitioner Data Bank (NPDB) for enforcement information when making licensure decisions; as a result, it may issue a license to an applicant who was disciplined in another state.
- **During fiscal years 2019 through 2021, LSBEP received 71 complaints containing 152 allegations and closed 63 complaints that took an average of 338 days to resolve. However, LSBEP has not established internal timeframes for resolving complaints, and its process for tracking complaints does not record accurate and complete information. As a result, the Board cannot ensure that it is investigating and resolving complaints in a timely manner.** Tracking details such as dates for each stage of the process, as well as the nature and outcome of each complaint, would also allow LSBEP to globally analyze trends in types of allegations, determine whether it meets timeframe goals, and identify areas where it could improve efficiency.
- **LSBEP has not adopted a disciplinary matrix that aligns with regulatory best practices to ensure that disciplinary actions are consistent and appropriately escalated based on the number and/or severity of violations.** In addition, LSBEP's disciplinary effectiveness may be limited because it does not consistently track disciplinary actions, does not have authority to impose fines as part of a graduated range of sanctions, and does not have a comprehensive process that includes timeframes for monitoring licensees' compliance with Board orders.
- **LSBEP did not report four (44.4%) of the nine adverse actions it issued during fiscal years 2019 through 2021 to the NPDB in accordance with federal law.** The nature of these cases included sexual harassment of clients, unprofessional conduct, treatment without informed consent, and substandard care, among other issues.

These issues are explained in more detail throughout the remainder of the report, along with recommendations to assist LSBEP to strengthen its regulation of the profession of psychology.

In August 2007, state law granted LSBEP the authority to conduct background checks on individuals applying for initial or reinstatement licenses, but not on those renewing their licenses. In August 2008, LSBEP began conducting background checks on applicants; however, as of February 2022, 378 (44.1%) of 857 current licensees who were licensed prior to August 2008 do not have a background check.

To qualify for licensure, state law⁴ requires psychologists to be of good moral character. State law⁵ also authorizes LSBEP to deny, withhold, revoke, or suspend any license issued or applied for if a licensee or applicant has been convicted of a felony or any crime or offense which reflects the inability of the practitioner to practice with due regard for the health and safety of clients or patients. In August 2007, state law⁶ granted LSBEP the authority to require individuals applying for the issuance or reinstatement of a license to provide fingerprints so that the Board could request national criminal history background checks to determine applicants' suitability and eligibility for licensing. According to LSBEP, it began performing background checks on applicants for initial licensure in August 2008.

Although LSBEP began conducting background checks for licensees who applied for licensure in August 2008, state law does not authorize background checks on licensees applying for renewal. As a result, as of February 2022, 378 (44.1%) of 857 current licensees who were licensed before August 2008⁷ do not have a background check. The Texas Sunset Advisory Commission⁸ states that regulatory agencies should conduct criminal background checks for license issuance or renewal if necessary to determine whether the applicant or licensee presents a risk to the health, safety, or welfare of the public. However, state law does not specifically authorize LSBEP to perform background checks on renewal applicants, as it does for

⁴ R.S. 37:2356

⁵ R.S. 37:2359

⁶ R.S. 37:2372.1 originally provided LSBEP with the authority to conduct background checks; however, this statute was repealed during the 2009 Regular Legislative Session and the authority was moved to R.S. 37:2356.1.

⁷ LSBEP did not conduct background checks on those applicants who had already started the application process prior to August 2008; as a result, there are likely more licensees who did not receive background checks but were licensed after August 2008.

⁸ The Texas Sunset Advisory Commission is a 12-member legislative commission tasked with identifying and eliminating waste and inefficiency for more than 130 Texas state agencies. Its [Sunset Licensing and Regulation Model](#) reflects over 40 years of experience reviewing licensing and regulatory agencies and provides guidance for evaluating their efficiency, effectiveness, fairness, and accountability in their mission to protect the public.

at least five other Louisiana healthcare regulatory boards.⁹ For example, the Louisiana State Board of Medical Examiners is required to obtain criminal history information on any applicant during initial licensure, renewal, or reinstatement.¹⁰ In addition, the Texas State Board of Examiners of Psychologists (TSBEP) began requiring a criminal background check in 2015 for both existing licensees and applicants for initial licensure. According to TSBEP, by reviewing the criminal history of existing licensees, it found licensees who failed to self-disclose their criminal history, including one licensee who renewed their license from prison without disclosing their incarceration.

One of the benefits of conducting criminal background checks on all licensees is that LSBEP can receive “Rap Back” notifications from Louisiana State Police if any of its licensees are arrested after their initial background check. The Rap Back service allows LSBEP to receive ongoing status notifications of any criminal activity on licensees with a completed criminal background check, thus eliminating the need for repeated background checks on the same licensee. However, because LSBEP has never conducted background checks on 44.1% of its licensees, it has to rely on these licensees to self-disclose during the renewal process if they have been arrested, charged, convicted, or pled guilty to any violation of state or federal law. This method is not always reliable, as we found that the Board learned that at least one licensee did

Example of Failure of LSBEP’s Current Self-Disclosure Process

A licensee who began the application process prior to August 2008 and thus did not receive a background check was arrested for driving while intoxicated in September 2017, but reported no new crimes or arrests on renewal forms submitted the following three years.

- In October 2020, LSBEP received information about the September 2017 arrest and a pending civil suit filed against the licensee, and the Board opened an administrative complaint to investigate.
- In April 2021, the Board received a complaint about this licensee involving allegations of sexual harassment and intimacies with a current patient, substance abuse, and substandard care.
- As of February 2022, both complaints were still open while the licensee continues to hold an active license.

Source: LSBEP complaint files

not self-disclose their full criminal history, as shown in the text box to the left. If LSBEP’s statutory authority to conduct criminal background checks was not limited to applicants for initial licensure, it could review the criminal history of all licensees, receive Rap Back notifications on all licensees, and ensure that it has the information needed to determine if licensees meet moral character requirements and are suitable for practice.

⁹ Louisiana Board of Chiropractic Examiners, Louisiana State Board of Dentistry, Louisiana State Board of Medical Examiners, Louisiana Licensed Professional Counselors Board of Examiners, and Louisiana State Board of Social Work Examiners

¹⁰ R.S. 37:1277

In addition, LSBEP does not query the NPDB for enforcement information when making licensure decisions; as a result, it may issue a license to an applicant who was disciplined in another state. Certain entities, including LSBEP, other state healthcare licensing boards, and hospitals, are required by federal law¹¹ to report adverse actions against healthcare practitioners to the NPDB (*see text box at right*). These adverse actions include disciplinary actions taken as a result of formal proceedings including revocation or suspension of a license, probation, or reprimand, and would not show up on criminal background checks. However, LSBEP is not required by law to query the NPDB prior to issuing or renewing licenses, so it may be making decisions without important information on potential applicants. The NPDB also offers a “Continuous Query” service that would notify LSBEP via email within 24 hours of a report received by the NPDB on any of LSBEP’s enrolled licensees.¹²

The **National Practitioner Data Bank (NPDB)** is a web-based federal repository of reports used as a tool to enhance professional review efforts and prevent healthcare fraud and abuse, with the ultimate goal of protecting the public.

Source: [U.S. Department of Health and Human Services](https://www.hhs.gov/npdb/)

Other Louisiana healthcare regulatory boards use information from the NPDB when making licensing decisions. For example, the Louisiana State Board of Dentistry is required by state regulations¹³ to utilize information from the NPDB to determine the professional ability, conduct, and character of all applicants seeking a license. In addition, the Louisiana State Board of Medical Examiners began querying the NPDB for all applicants in June 2019, although it is not required to do so. The Louisiana Physical Therapy Board also started querying the NPDB in May 2020,¹⁴ as did the Louisiana Licensed Professional Counselors Board of Examiners in October 2021,¹⁵ after we conducted performance audits on their respective regulatory functions. If LSBEP verified, on an ongoing basis, that licensees have not been disciplined in other states, it could better protect the public.

Recommendation 1: LSBEP should request “Continuous Query” reports from the NPDB for all applicants to ensure the Board receives accurate, timely notice of actions taken by other states and healthcare entities.

Summary of Management’s Response: LSBEP agrees with this recommendation and stated that it began querying the NPDB for all new applicants on November 30, 2021, and expects to be fully compliant by the next license renewal season which begins on July 1, 2022. In addition, the Board has requested training on maintaining Continuous Query for current and renewing licensees. See Appendix A for LSBEP’s full response.

¹¹ 42 USC § 1320a-7e

¹² As of March 2022, the annual charge is \$2.50 for each enrolled practitioner (<https://npdb.hrsa.gov/hcorg/pds.jsp>).

¹³ Louisiana Administrative Code 46:307, 707

¹⁴ The report can be found here:

[https://app.lla.state.la.us/publicreports.nsf/0/817cae8bac4bbe9e8625856f005e9b78/\\$file/r2_lptb.pdf?openelement&.7773098](https://app.lla.state.la.us/publicreports.nsf/0/817cae8bac4bbe9e8625856f005e9b78/$file/r2_lptb.pdf?openelement&.7773098)

¹⁵ The report can be found here:

[https://app.lla.state.la.us/publicreports.nsf/0/2465c052a157e9b68625878900613b55/\\$file/00024f57a.pdf?openelement&.7773098](https://app.lla.state.la.us/publicreports.nsf/0/2465c052a157e9b68625878900613b55/$file/00024f57a.pdf?openelement&.7773098)

Matter for Legislative Consideration 1: The legislature may wish to consider amending R.S. 37:2356.1 to authorize LSBEP to conduct criminal background checks on all applicants, including those renewing their licenses.

During fiscal years 2019 through 2021, LSBEP received 71 complaints containing 152 allegations and closed 63 complaints that took an average of 338 days to resolve. However, LSBEP has not established internal timeframes for resolving complaints, and its process for tracking complaints does not record accurate and complete information. As a result, the Board cannot ensure that it is investigating and resolving complaints in a timely manner.

LSBEP is authorized by state law¹⁶ to investigate complaints and issue disciplinary actions to licensees found to violate the Louisiana Psychology Practice Act. According to the Texas Sunset Advisory Commission, investigations that are unreasonably long can prolong potentially dangerous situations for the public and disrupt a licensee's practice, and tracking complaints helps an agency promptly, consistently, and reliably address complaints. In addition, the National State Auditors Association (NSAA) best practices¹⁷ state that regulatory agencies should set guidelines or requirements for how quickly complaints should be handled and track complaints to ensure that they are being addressed appropriately. However, LSBEP has not established internal timeframes for how long it should take to investigate complaints and issue disciplinary actions, and its process for tracking complaints does not ensure that it records accurate and complete information.

During fiscal years 2019 through 2021, LSBEP received 71 complaints containing 152 allegations and closed 63 complaints that took an average of 338 days to resolve. However, LSBEP has not established internal timeframes for how long it should take to investigate complaints and issue disciplinary actions. According to the Texas Sunset Advisory Commission, staff or contracted experts should perform complaint investigations, not board members, to keep investigations separate from final disciplinary decisions. According to LSBEP's policy, complaint investigations are assigned to a Complaints Committee consisting of the compliance officer,¹⁸ a licensed psychologist contracted as a complaints coordinator, a contracted investigator and/or attorney as needed, and one Board member to review the committee's recommendation before presentation to the full Board for closure.¹⁹ See Appendix E

¹⁶ R.S. 37:2353

¹⁷ [Carrying Out a State Regulatory Program: A National State Auditors Association Best Practices Document](#), 2004

¹⁸ The executive director is performing the duties of the compliance officer while this position is vacant and can serve on the committee as needed to provide administrative and directional support to the committee.

¹⁹ For complaints against individuals alleged to be practicing psychology without a license, a Board member serves as the complaints coordinator because complaints involving non-psychologists never go to a hearing. When such allegations of practice without a license are substantiated, the Board itself does not have authority to issue disciplinary action but state law authorizes it to notify the District Attorney and/or file an injunction to stop the unlawful practice.

for a flowchart of LSBEP's complaints process. During fiscal years 2019 through 2021, LSBEP received 71 complaints containing 152 allegations including substandard care, sexual misconduct or harassment, and substance abuse, as shown in Exhibit 2.

Exhibit 2		
Allegations Received by LSBEP, by Type of Complaint		
Fiscal Years 2019 through 2021		
Type of Complaint	Number of Allegations	Percent
Substandard Care, Negligence, or Malpractice	25	16.5%
Unprofessional Conduct, Discrimination, or Rude Treatment	20	13.2%
Failure to Maintain or Provide Accurate Patient Records	16	10.5%
Multiple Relationships or Conflict of Interest	14	9.2%
Practice Without License, Misrepresentation of Credentials, or Practice Outside of Scope	14	9.2%
Treatment or Evaluation without Informed Consent	9	6.0%
False or Deceptive Statements	7	4.6%
Fraud, Improper Billing, or Billing Dispute	7	4.6%
Insufficient Supervision or Allowing Unlicensed Person to Practice	7	4.6%
Failure to Report Abuse	7	4.6%
Misreported to LSBEP	7	4.6%
Sexual Misconduct, Harassment, or Inappropriate Relationships	5	3.3%
Substance Abuse	4	2.6%
Patient Abandonment or Lapse in Continuity of Care	4	2.6%
Breach of Confidentiality	4	2.6%
Criminal Activity, Disciplinary Action, or Failure to Report	2	1.3%
Total	152*	100.0%
*Some complaints contained multiple allegations.		
Source: Prepared by legislative auditor's staff using categories created based on review of LSBEP paper complaint files.		

Because LSBEP has not established any internal goals for how long it should take to investigate complaints and issue disciplinary actions, the Board cannot determine whether it is investigating and resolving complaints in a timely manner. We determined that it took LSBEP an average of 338 days to resolve the 63 complaints closed during fiscal years 2019 through 2021, ranging from eleven days to more than three years. Eight (12.7%) of the 63 complaints took more than two years to resolve, and an additional 13 (20.6%) complaints took more than one year to resolve. According to LSBEP, some complaints take longer to resolve due to their complexity, delays in getting evidence or setting up meetings, or lawsuits being filed. LSBEP staff stated that delays are usually caused by licensees rather than the Board, but the complaint process sometimes takes longer because of staffing shortages and reliance on contractors. For example, the two contracted complaints coordinators also work full-time as psychologists, so they are not always able to review complaints immediately.

The Texas Sunset Advisory Commission notes that although some investigations require more time than others, the agency should monitor time elapsed to keep investigations within reasonable time limits. Establishing goals for resolving complaints could help LSBEP measure the performance of its investigation and disciplinary processes, identify causes of delays, and

improve efficiency as needed. We found that other healthcare regulatory boards in Louisiana²⁰ and other state psychology boards²¹ have established timeframes for resolving complaints. For example, the Louisiana State Board of Nursing has established a “Priority System” where complaints are prioritized and investigated based on the risk to the public. Timeframes for resolving these complaints range from 90 business days for the most serious complaints to 350 business days for the least serious.

LSBEP’s process for tracking complaints involves duplicative documents and is impacted by staffing issues. As a result, LSBEP cannot ensure that it records accurate and complete information, which limits its ability to resolve complaints timely. LSBEP tracks complaint information in a spreadsheet, an investigation log, and a complaints log.²² However, we compared these three documents to each other and to LSBEP’s paper complaint files and Board meeting minutes that contain complaint outcomes, and found that none of the tracking documents were accurate or complete. For instance, the spreadsheet did not include all complaints, incorrectly listed some closed complaints as open, and did not include all instances of disciplinary action. According to LSBEP, it generally uses one of the two logs to track complaints’ status and outcomes based on how they are resolved, but we also found that these logs did not contain all complaints and sometimes listed an incorrect status or outcome or had a blank or invalid closure date. In addition, none of the tracking documents categorize or describe the nature of complaint allegations.

According to LSBEP, it created the two separate logs to distinguish different types of complaints for reporting to the Division of Administration’s Boards and Commissions website and developed the spreadsheet later as a way of determining if a licensee had a prior complaint; however, staffing limitations make it difficult to keep all of these documents updated. Implementing a process that includes tracking all complaint information in one spreadsheet and reviewing open complaints on a regular basis to update the spreadsheet (e.g., after monthly Board meetings) would help LSBEP to ensure that complaints are addressed timely and fully resolved. Tracking details such as dates for each stage of the process as well as the nature and outcome of each complaint would also allow LSBEP to globally analyze trends in types of allegations, determine whether it meets timeframe goals, and identify areas where it could improve efficiency.

We identified several instances of delays in the complaint process that may have been prevented through better tracking; however, according to LSBEP, these delays were also impacted by staffing limitations. For example, we found that three Letters of Education²³ were sent to the licensees more than five months after the Board voted to send them. While these letters do not impose limitations on licensure, they contain recommendations to prevent any future violations of law or rule. In addition, while the Board affirmed dismissal or disciplinary action for all complaints closed during fiscal years 2019 through 2021 as required by policy, we

²⁰ Louisiana Board of Pharmacy, Louisiana Licensed Professional Counselors Board of Examiners, Louisiana State Board of Medical Examiners, and Louisiana State Board of Nursing

²¹ Texas and Oregon

²² The logs are text documents with separate files for each year, meaning LSBEP staff cannot readily perform global data analysis of this information.

²³ Letters of Education are non-public enforcement actions that are placed in the licensee’s permanent file and may be used to establish a pattern of behavior should the Board continue to receive similar complaints.

identified five complaints that LSBEP did not ensure were fully closed. These five complaints included one licensee who was never sent a Letter of Education that the Board voted to send in June 2019 about mandatory reporting of abuse. The other four complaints regarding conflicts of interest, breach of confidentiality, improper billing, and practice without a license remained open for more than two years because they were never presented to the Board for closure. Based on our review, LSBEP docketed these five complaints for presentation to the Board in February 2022. Having sufficient staff as well as an efficient process for tracking complaints during their investigation and resolution could help prevent delays in the future.

Recommendation 2: LSBEP should establish internal timeframes for how long it should take to investigate complaints and issue enforcement actions.

Summary of Management's Response: LSBEP agrees with this recommendation and stated that it will establish a system where complaints are prioritized and investigated on a case-by-case basis considering risk to the public. This system will ensure complaints are processed within reasonable time periods, factoring in the complexity of the case, and timeframes for internal monitoring will be determined to ensure compliance. See Appendix A for LSBEP's full response.

Recommendation 3: LSBEP should establish a process for tracking complaints that includes documenting the status, nature, and outcome of all complaints, periodically reviewing open complaints, and periodically analyzing complaints data to assess compliance with agency policy and identify opportunities for improvement.

Summary of Management's Response: LSBEP agrees with this recommendation and stated that the hiring of a full-time administrative assistant will allow the executive director to investigate, develop, and implement processes. The goal is to consolidate and utilize a shared complaints database to record data necessary for tracking, evaluating internal compliance, and generating compliance reports. See Appendix A for LSBEP's full response.

LSBEP has not adopted a disciplinary matrix that aligns with regulatory best practices to ensure that disciplinary actions are consistent and appropriately escalated based on the number and/or severity of violations. In addition, LSBEP’s disciplinary effectiveness may be limited because it does not consistently track disciplinary actions, does not have authority to impose fines as part of a graduated range of sanctions, and does not have a comprehensive process that includes timeframes for monitoring licensees’ compliance with Board orders.

State law²⁴ authorizes LSBEP to issue disciplinary actions to licensees who violate the Louisiana Psychology Practice Act, including suspending or revoking a license, imposing probation, or requiring remediation for a specified time. The Board may also offer licensees the opportunity to voluntarily relinquish their license or enter an Impaired Psychologist Procedure Agreement²⁵ as an alternative to formal disciplinary action, or may opt to send a Letter of Education if an issue does not rise to the level of disciplinary action, but presents an opportunity for education or guidance. Exhibit 3 categorizes the 20 enforcement actions issued by LSBEP during fiscal years 2019 through 2021.

Exhibit 3		
Enforcement Actions Issued, by Type		
Fiscal Years 2019 through 2021		
Type of Enforcement Action	Number	Percent
Public Actions		
Probation*	3	15.0%
Suspension*	1	5.0%
License Revocation	1	5.0%
Voluntary Relinquishment of License	1	5.0%
Summary Suspension or Agreement to Abstain (Temporary)**	2	10.0%
Total Public Actions	8	40.0%
Non-Public Actions		
Letter of Education	11	55.0%
Impaired Psychologist Procedure Agreement*	1	5.0%
Total Non-Public Actions	12	60.0%
Total Enforcement Actions	20	100%
<p>*These actions required the licensee to take corrective action before being restored to full licensure. **These actions temporarily required a licensee to stop practicing until the complaint investigation was completed due to the serious nature of the complaint. Summary suspension is a Board order, whereas a licensee voluntarily enters an agreement to abstain. Source: Prepared by legislative auditor’s staff using information from LSBEP.</p>		

²⁴ R.S. 37:2359

²⁵ This is a confidential, voluntary procedure that suspends disciplinary action against licensed psychologists whose capacity to practice psychology is compromised due to substance abuse, chemical dependency, physical or mental conditions, or other impairments on the condition that they participate in rehabilitative medical treatment, ongoing aftercare, and monitoring.

LSBEP has not adopted a disciplinary matrix in accordance with best practices to assist the Board in issuing consistent and appropriate enforcement actions. NSAA best practices state that regulatory agencies should establish a graduated and equitable system of sanctions set sufficiently high to help achieve desired results. According to LSBEP, it has begun developing a matrix based on the guide implemented by the North Carolina Psychology Board, but as of February 2022 it does not have an anticipated timeline for implementing the matrix. As recommended by NSAA best practices, LSBEP's adopted matrix should escalate discipline based on the severity and number of violations. In addition to establishing processes to track the nature and outcomes of complaints as previously discussed, LSBEP should establish processes to analyze this information periodically after the matrix is implemented to evaluate whether disciplinary actions are consistently issued in accordance with the matrix and whether matrix updates are needed to discourage certain types of violations.

Unlike some other state psychology boards and Louisiana healthcare boards, LSBEP does not have authority to impose fines as part of a graduated range of disciplinary actions. State law²⁶ authorizes LSBEP to require disciplined licensees to reimburse reasonable costs of disciplinary proceedings incurred by the Board, such as legal, investigator, staff, and witness fees. During fiscal years 2019 through 2021, LSBEP requested reimbursement of hearing fees or informal resolution fees from six licensees for a total of \$58,031.²⁷ However, unlike some other states' psychology boards and Louisiana healthcare boards, the law does not authorize LSBEP to impose fines on licensees as a disciplinary action. Specifically, we found that at least 11 other states' psychology boards and at least five other Louisiana healthcare boards have authority to impose monetary fines as disciplinary action for violations. Exhibit 4 summarizes the ranges of disciplinary fines imposed by other states' psychology boards and other Louisiana healthcare boards.

²⁶ R.S. 37:2359

²⁷ As of March 2022, four of the six licensees have reimbursed LSBEP \$8,378 of the \$58,031 requested.

Exhibit 4	
Other State Psychology Boards' and Louisiana Healthcare Boards' Authority for Disciplinary Fines	
Other State Psychology Boards	
State	Fine Range
Alabama	Not to exceed \$1,000 per violation or a total of \$5,000
Arkansas	Not to exceed \$5,000
California	\$100 to \$5,000 per violation
Florida	\$1,000 to \$10,000 per violation
Georgia	Not to exceed \$500 per violation
New York	Not to exceed \$10,000 per violation
Oklahoma	Not to exceed \$5,000 per incident
Oregon	Not to exceed \$10,000
Tennessee	\$50 to \$1,000
Texas	Not to exceed \$5,000 per violation
Washington	Not to exceed \$5,000 per violation
Other Louisiana Healthcare Boards	
Board	Fine Range
Louisiana Licensed Professional Counselors Board of Examiners	Not to exceed \$5,000
Louisiana State Board of Dentistry	\$500 to \$5,000 per violation
Louisiana State Board of Medical Examiners	Not to exceed \$5,000
Louisiana State Board of Nursing	\$750 to \$5,000 per violation*
Louisiana State Board of Social Work Examiners	Not to exceed \$1,000 per violation
*Per policy, as state law and regulations only authorize the Louisiana State Board of Nursing to charge fines but do not establish a range or maximum amount.	
Source: Prepared by legislative auditor's staff using state laws and regulations.	

NSAA best practices state that regulatory agencies should establish a graduated and equitable system of sanctions that includes increasing levels of fines to help discourage noncompliance. In addition, the Texas Sunset Advisory Commission states that monetary penalties have been accepted as an enforcement tool for almost all regulatory agencies in Texas, with authority up to \$5,000 per day per violation common for most agencies.

In addition to fines as a formal disciplinary action, at least 12 other states' psychology boards²⁸ and six other Louisiana healthcare boards²⁹ also have authority to impose fines for instances of administrative noncompliance such as failure to respond to a board investigation, failure to update contact information with the board, or failure to submit a mandatory report. The Texas Sunset Advisory Commission states that consideration should be given to authorizing an agency to assess administrative fines as an additional enforcement tool used to encourage compliance without having to suspend or revoke a license. Having the authority to develop an escalating range of fines for violations as part of its disciplinary matrix as well as impose fines for administrative noncompliance would improve LSBEP's ability to find the most effective combinations of disciplinary actions to discourage specific violations that threaten the public and

²⁸ Alabama, Arkansas, California, Florida, Georgia, Mississippi, New York, Oklahoma, Oregon, Tennessee, Virginia, and Washington

²⁹ Louisiana State Board of Dentistry, Louisiana State Board of Medical Examiners, Louisiana Licensed Professional Counselors Board of Examiners, Louisiana Physical Therapy Board, Louisiana State Board of Nursing, and Louisiana State Board of Social Work Examiners

to incentivize administrative compliance. Disciplinary fines could also serve as a deterrent from continued violations that endanger the public.

LSBEP does not have a comprehensive process that includes timeframes for monitoring compliance with Board orders issued as a result of disciplinary action. LSBEP's disciplinary actions may require corrective action as a condition for returning to full licensure or include temporary or permanent practice restrictions. For example, disciplinary actions issued during fiscal years 2019 through 2021 included orders requiring licensees to complete additional continuing professional development courses, submit to psychiatric evaluation and treatment or drug tests, and to be supervised by another psychologist, as well as orders prohibiting licensees from supervising license applicants or assistants to psychologists. In addition, all Board orders issued during this period required disciplined licensees to reimburse reasonable costs of disciplinary proceedings incurred by the Board, such as legal, investigator, staff, and witness fees. According to LSBEP, staff create separate spreadsheets to track the compliance of each disciplined licensee and use calendar reminders for monitoring specific activities. However, these processes are not formalized in policy and staff have not followed them consistently. In addition, the Board does not have a process for systematically and periodically monitoring whether all disciplined licensees have performed required corrective actions, reimbursed disciplinary costs as ordered, and continue to comply with ongoing Board restrictions.

LSBEP included a provision requiring cooperation with unannounced Board monitoring visits in one of its consent orders issued during fiscal years 2019 through 2021. According to LSBEP, it has performed one site visit since the licensee was placed on probation in February 2020, and that visit identified potential issues that may delay the licensee from ending probation and returning to full licensure. Another disciplined individual whose license was revoked in October 2020 was ordered to reimburse the Board a hearing fee of \$40,622³⁰ within 30 days. However, according to LSBEP, because of COVID-19 issues and staffing limitations, it did not follow up on these unpaid fines until June 2021, when it sent a letter stating the Board would present the matter to the Attorney General if the fees were not paid by July 2021. That letter was returned as undeliverable in August 2021, but according to LSBEP, it did not send a letter about the unpaid fees to the Attorney General until February 2022. The Texas Sunset Advisory Commission and NSAA best practices both recommend that agencies develop a system to monitor compliance with disciplinary requirements placed on licensees to determine whether the problems have been corrected or whether additional enforcement action is needed.

Recommendation 4: LSBEP should adopt a disciplinary matrix that assists the Board in issuing consistent and appropriate enforcement actions as recommended by best practices by escalating discipline based on the severity and number of violations.

Summary of Management's Response: LSBEP agrees with this recommendation and stated that it has established a workgroup and has begun this process, including the development of a matrix and policy revisions for implementation. The workgroup has completed its recommendations regarding matrix policies and anticipates presenting the

³⁰ Includes costs for court reporter, prosecuting attorney, Board attorney, administrative hearing officer, security officer, investigation, and Board member per diem, hotel rooms, and mileage.

recommendation to the Board for consideration in June 2022. See Appendix A for LSBEP's full response.

Recommendation 5: LSBEP should periodically analyze whether disciplinary actions are consistently issued in accordance with the matrix and whether matrix updates are needed to discourage certain types of violations.

Summary of Management's Response: LSBEP agrees with this recommendation. See Appendix A for LSBEP's full response.

Recommendation 6: LSBEP should establish a process that includes timeframes for systematic and periodic monitoring of compliance with Board orders, evaluating disciplined licensees' progress towards completing corrective actions, and tracking updates to licensees' status after disciplinary action is issued.

Summary of Management's Response: LSBEP agrees with this recommendation and stated that the recent addition of in-house counsel whose primary focus is on the complaint adjudication process will substantially improve the Board's ability to ensure full compliance with this recommendation. See Appendix A for LSBEP's full response.

Matter for Legislative Consideration 2: The legislature may wish to consider authorizing LSBEP to impose fines on licensees as part of a graduated range of disciplinary actions, as well as fines for administrative noncompliance.

LSBEP did not report four (44.4%) of the nine adverse actions it issued during fiscal years 2019 through 2021 to the NPDB in accordance with federal law.

As previously discussed, state psychology boards are required by federal law to report disciplinary actions such as suspensions, restrictions, and reprimands imposed on licensees, as well as application denials, to the NPDB within 30 days after issuing the adverse action. According to the U.S. Department of Health and Human Services,³¹ timely and consistent disclosure of adverse actions to the NPDB is important to ensure disciplined licensees do not move from state to state without disclosure or discovery of previous damaging performance.

During fiscal years 2019 through 2021, we found that LSBEP failed to report one (11.1%) of the nine adverse actions it issued to the NPDB, and failed to report three (33.3%) within the required 30 days. The one action not reported was an Impaired Psychologist Procedure Agreement (IPPA) that included the psychologist's agreement to voluntarily abstain from practice while fulfilling the terms of the IPPA.³² For the three actions not reported within 30 days, LSBEP took an average of 50 days to report them to the NPDB,

³¹ <https://www.npdb.hrsa.gov/topNavigation/aboutUs.jsp>

³² Although actions against an impaired practitioner are not always reportable to the NPDB as adverse actions, the NPDB Guidebook states that these actions are reportable if they include an enforceable agreement not to practice.

ranging from 37 to 67 days after the action was issued. The nature of these cases included sexual harassment of clients, unprofessional conduct, treatment without informed consent, and substandard care, among other issues. Although LSBEP's policy states that staff must manage timely reporting of disciplinary actions to the NPDB as required by law, it does not address specific requirements such as which actions must be reported and the required 30-day timeframe for reporting.

Recommendation 7: LSBEP should ensure that it reports all adverse actions to the National Practitioner Data Bank within 30 days as required by law.

Summary of Management's Response: LSBEP agrees with this recommendation and stated that it ultimately reported all action as required; however, delays were caused by staffing issues. See Appendix A for LSBEP's full response.

APPENDIX A: MANAGEMENT'S RESPONSE



**LOUISIANA STATE BOARD
OF EXAMINERS OF
PSYCHOLOGISTS**

4334 South Sherwood Forest Boulevard, #C-150
Baton Rouge, Louisiana 70816

Voice: (225) 295-8410
Fax: (225) 295-8412
Email: admin.lsbep@la.gov
Website: lsbep.org

May 24, 2022

Via Email, U.S. Mail and
U.S. Certified Mail #7018 0360 0000 8245 7898

Michael J. "Mike" Waguespack, Legislative Auditor
Louisiana Legislative Auditor
1600 North Third Street
P.O. Box 94397
Baton Rouge, LA 70804-9397
edixon@lla.la.gov
lpendas@lla.la.gov

ANSWER AND COMPLIANCE PLAN

On October 25, 2021, the Louisiana State Board of Examiners of Psychologists ("Board") received Report No. 40210022 ("Report") from the Louisiana Legislative Auditor ("LLA"), resulting from an ongoing performance audit ("Audit"). Ms. Jaime T. Monic, Executive Director, shall serve as the Board's "Agency Contact Responsible for Recommendation" for all purposes relating to the Report and may be contacted at: 4334 S. Sherwood Forest Boulevard, Suite C-150, Baton Rouge, LA 70816; (225)295-8410; admin.lsbep@la.gov. The Psychology Practice Act (La. Revised Statutes (R.S.) 37:2351, *et seq.*) clarifies the Board's purpose is to safeguard life, health, property, and the public welfare of this state, and to protect the people of this state against unauthorized, unqualified, and improper application of psychology. The Board takes seriously its charge and always strives to act in good faith

to comply with the Act and known best practices. Accordingly, the Board respectfully and timely submits the following Answer and Compliance Plan (“Answer”) in response to the Report:

Finding 1: In August 2007, state law granted LSBEP the authority to conduct background checks on individuals applying for initial or reinstatement licenses, but not on those renewing their licenses. In August 2008, LSBEP began conducting background checks on applicants; however, as of February 2022, 378 (44.1%) of 857 current licensees who were licensed prior to August 2008 do not have a background check.

Recommendation 1: LSBEP should request “Continuous Query” reports from the National Practitioner Data Bank for all applicants to ensure the Board receives accurate, timely notice of actions taken by other states and healthcare entities.

Does Agency Agree with Recommendation? Agree Disagree

The Board agrees with Recommendation No. 1 to request a “Continuous Query” report from the National Practitioner Data Bank for all applicants. Further, the Board agrees to take all action(s) necessary to comply with and implement Recommendation No. 1 according to the Audit, the Act, LAPA, and other applicable law and oversight. The Board began querying the NPDB for all new applicants on November 30, 2021 and has requested training on maintaining Continuous Query for current and renewing licensees. The Board expects to be fully compliant by the next license renewal season which begins on July 1, 2022.

Finding 2: During fiscal years 2019 through 2021, LSBEP received 71 complaints containing 152 allegations and closed 63 complaints that took an average of 338 days to resolve. However, LSBEP has not established internal timeframes for resolving complaints and its process for tracking complaints does not record accurate and complete information for analysis. As a result, the Board cannot ensure that it is investigating and resolving complaints in a timely manner.

Recommendation 2: LSBEP should establish internal timeframes for how long it should take to investigate complaints and issue enforcement actions.

Does Agency Agree with Recommendation? Agree Disagree

The Board agrees with Recommendation No. 2 that will establish a system where complaints are prioritized and investigated on a case-by-case basis considering risk to the public in accordance with the Audit, the Act, LAPA, and other applicable law and oversight. This system will ensure complaints are processed within reasonable time periods, factoring in the complexity of the case. These procedures are currently in practice, but not explicitly stated in policy. Additionally, the board has recently hired two full-time employees including in-house counsel whose primary focus is on the complaint adjudication process. Timeframes for internal monitoring will be determined to ensure compliance.

Recommendation 3: LSBEP should establish a process for tracking complaints that includes documenting the status, nature, and outcome of all complaints, periodically reviewing open complaints, and periodically analyzing complaints data to assess compliance with agency policy and opportunities for improvement.

Does Agency Agree with Recommendation? Agree Disagree

The Board agrees with Recommendation No. 3 regarding establishing a process for tracking complaints that includes documenting the status, nature, and outcome of all complaints; periodically reviewing open complaints; and regularly analyzing complaint data to assess compliance with agency policy and identify opportunities for improvement. Over the past 3 years, the board has worked to improve financial stability in order to employ staff who can develop these processes understanding that this is vital to operations and best practice. The hiring of a full-time administrative assistant will allow the executive director to investigate, develop, and implement processes. The goal is to consolidate and utilize a shared complaints database to record data necessary for tracking, evaluating internal compliance, and generating compliance reports.

Finding 3: LSBEP has not adopted a disciplinary matrix that aligns with regulatory best practices to ensure that disciplinary actions are consistent and appropriately escalated based on the number and/or severity of violations. In addition, LSBEP's disciplinary effectiveness may be limited because it does not consistently track disciplinary actions, does not have authority to impose fines as part of a graduated range of sanctions, and does not have a comprehensive process that includes timeframes for monitoring licensees' compliance with Board orders.

Recommendation 4: LSBEP should adopt a disciplinary matrix that assists the Board in issuing consistent and appropriate enforcement actions as recommended by best practices by escalating discipline based on the severity and number of violations.

Does Agency Agree with Recommendation? Agree Disagree

The Board agrees with Recommendation No. 4 regarding the adoption of a disciplinary matrix to assist in issuing consistent and appropriate enforcement actions, recognizing that best practice is to escalate discipline based on the severity and number of violations. The Board has established a workgroup and has begun this process, including the development of a matrix and policy revisions for implementation. The workgroup has completed its recommendations regarding matrix policies and anticipates presenting the recommendation to the Board for consideration in June 2022.

Recommendation 5: LSBEP should periodically analyze whether disciplinary actions are consistently issued in accordance with the matrix and whether matrix updates are needed to discourage certain types of violations.

Does Agency Agree with Recommendation? Agree Disagree

The Board agrees with Recommendation No. 5 regarding adoption of a disciplinary matrix that will ensure timeframes are established by policy. The board will periodically analyze data to determine whether disciplinary actions are issued consistently in accordance with the matrix and whether updates are needed to discourage certain types of violations.

Recommendation 6: LSBEP should establish a process that includes timeframes for systematic

and periodic monitoring of compliance with Board orders, evaluating disciplined licensees' progress towards completing corrective actions, and tracking updates to licensees' status after disciplinary action is issued.

Does Agency Agree with Recommendation? Agree Disagree

The Board agrees with Recommendation No. 6 to establish a procedure for systematic and periodic monitoring of compliance with Board orders. Each Consent Order that contains corrective actions has its own set of unique timelines. Currently, a Compliance Tracker is created to track non-compliance. Previously, the Board, comprised entirely of volunteer members, relied on one full-time employee, a contract Complaints Coordinator, and a contract Attorney to address all complaints issues. These staffing limitations delayed the monitoring process. The recent addition of in-house counsel whose primary focus is on the complaint adjudication process will substantially improve the Board's ability to ensure full compliance with this recommendation.

Finding 4: LSBEP did not report four (44.4%) of the nine adverse actions it issued during fiscal years 2019 through 2021 to the National Practitioner Data Bank (NPDB) in accordance with federal law.

Recommendation 7: LSBEP should ensure that it reports all adverse actions to the National Practitioner Data Bank within 30 days as required by law.

Does Agency Agree with Recommendation? Agree Disagree

The Board agrees with Recommendation No. 7 that it should ensure reporting of all adverse actions to the National Practitioner Data Bank within 30 days as required by law. Further, the Board agrees to take all action(s) necessary to comply and implement this recommendation according to the Audit, the Act, LAPA, and other applicable law and oversight. It should be noted that the Board ultimately reported all actions as required; however delays were caused by

staffing issues. The Board agrees to report all adverse actions to the NPDB.

Sincerely,


Gina Gibson, PhD, ABPP-CN (May 24, 2022 20:14 CDT)

Gina Gibson, PhD, ABPP-CN
Chair

NOTICE: LA R.S. 42:14.D. Public comments – In accordance with LA R.S. 42:14.D., the LSBEP shall allow public comments at any point during a meeting of the LSBEP prior to action on an agenda item upon which a vote is to be taken. Individuals who wish to comment on a matter must sign in and state their intent to comment on a matter.

La. R.S. 44:33.1 - In compliance with La. R.S. 44:33.1, the LSBEP hereby gives notice that information submitted to the LSBEP may become public record pursuant to the provisions of Louisiana Public Records Law, La. R.S. 44:1, *et seq.*

APPENDIX B: SCOPE AND METHODOLOGY

This report provides the results of our performance audit of the Louisiana State Board of Examiners of Psychology (LSBEP). We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. This audit covered fiscal years 2019 through 2021. Our audit objective was:

To evaluate LSBEP’s regulation of the profession of psychology to ensure compliance with the Louisiana Psychology Practice Act.

We conducted this performance audit in accordance with generally accepted *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We obtained an understanding of internal control that is significant to the audit objective and assessed the design and implementation of such internal control to the extent necessary to address our audit objective. We also obtained an understanding of legal provisions that are significant within the context of the audit objective, and we assessed the risk that illegal acts, including fraud, and violations of applicable contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

To answer our objective, we reviewed internal controls relevant to the audit objective and performed the following audit steps:

- Researched and reviewed applicable federal and state laws and regulations, including the Louisiana Psychology Practice Act and the Social Security Act.
- Interviewed staff and stakeholders and observed public Board meetings to understand LSBEP’s licensing, monitoring, and enforcement processes, as well as how staffing issues impact these processes.
- Obtained and reviewed LSBEP’s policies and procedures including licensing, continuing education, complaints, investigations, and discipline.
- Researched best practices, including guidance from the National State Auditors Association, the Texas Sunset Advisory Commission, other Louisiana healthcare regulatory boards, and other states’ psychology boards.

- Obtained and analyzed licensing data from LSBEP to determine the number of current licensees who were licensed before August 2008 and therefore did not have a background check.
 - Verified the completeness of the licensee data by randomly selecting ten active licensee paper files from LSBEP’s filing room and verifying that those licensees were included in the licensing data.
 - Compared a targeted selection of 26 licensees without background checks to the Louisiana Sex Offender Registry website to determine whether any current licensees have sex offender histories. This selection was identified by assigning random numbers to each individual licensed after August 1, 2008, ranking the assigned random numbers, and selecting the top 20 licensees. Since 13 of these 20 licensees were female, we added the next six highest ranking males to our selection. We did not find any of these 26 licensees in the Sex Offender Registry.
 - Reviewed LSBEP licensee files for a targeted selection of 19 individuals licensed between August 1, 2008 and June 30, 2021 to determine whether LSBEP conducted background checks. This selection was identified by assigning random numbers to each individual licensed after August 1, 2008, then selecting the first licensee from each year for calendar years 2009 through 2021 to ensure we reviewed one licensee from each calendar year. In addition to these 13 licensees, we reviewed the six files of individuals licensed after August 2008 that were randomly selected as part of our completeness review. We determined that LSBEP did conduct background checks on all 19 licensees reviewed.
- Researched criminal background check “Rap Back” notifications from the Federal Bureau of Investigation’s website.
- Obtained and analyzed complaint data from LSBEP’s internal tracking logs and spreadsheet. We used LSBEP’s complaints spreadsheet as the basis of a data collection instrument (DCI) to combine information from the spreadsheet, investigation logs, complaint logs, complaint paper files, consent orders, and Board meeting minutes.
 - Compared the complaints spreadsheet to the investigation and complaint logs and Board meeting minutes to ensure the DCI included the complete population of complaints for analysis. We then categorized all complaints using auditor judgment.
 - For fiscal years 2019 through 2021, determined the number and type of complaints received, the number of complaints resolved, how long LSBEP took to resolve complaints, and the number of enforcement actions issued to licensees.

- Reviewed Board meeting minutes to ensure all dismissals and disciplinary actions were approved by the Board as required by policy. We found that all were approved.
- Reviewed NPDB reporting requirements, including timeframes, and obtained a historical report from the NPDB to determine whether LSBEP reported all disciplinary actions within 30 days as required.
- Reviewed LSBEP's website to determine whether all disciplinary actions were posted.
- Reviewed legal criteria to determine whether LSBEP has the authority to impose fines as part of its disciplinary process or for administrative noncompliance.
- Reviewed complaint files to determine whether LSBEP monitored Board orders issued as a result of disciplinary action during fiscal years 2019 through 2021.
- Summarized revenue and expenditure information from the Division of Administration's Boards and Commissions website to determine LSBEP's net income (loss) each year during fiscal years 2015 through 2021.
- Obtained LSBEP contracts active during fiscal year 2021 from LSBEP and summarized services provided, contract period, payment rate, contract limit, and payments made during fiscal year 2021.

APPENDIX C: LSBEP CONTRACTS FOR PROFESSIONAL SERVICES FISCAL YEAR 2021

Contracted Function	Services Provided	Period of Contract	Payment Rate	Max Payment	FY21 Actual
Accounting	General accounting services	July 1, 2020 to June 30, 2021	\$60 per hour; reimbursements for travel and lodging	\$6,000	\$4,640
	Audit services	June 29, 2020 to Sept. 30, 2022	Rate Not Specified	\$1,800 per year	\$1,800
Complaints Coordinator (2)	Review, coordinate, and oversee complaint investigations and provide recommendations for resolution	July 1, 2018 to June 30, 2021	\$100 per hour for review (\$300 limit per case), drafting administrative complaints (\$100 limit per case), and \$100 per hour for all meetings; reimbursements for travel and lodging	\$36,000*	\$4,211
		July 1, 2020 to June 30, 2021		\$5,000	\$3,663
Private Investigator	Investigate complaints, provide information for resolution, etc.	July 1, 2020 to June 30, 2021	\$60 per hour; reimbursements for travel and lodging	\$12,000	\$8,715
Administrative Consulting	Assist executive director with special projects and project management as requested	July 1, 2020 to June 30, 2021	\$25 per hour	\$12,500	\$417
Copy Service Contract**	Lease of copy machine, maintenance, and supplies	March 18, 2018 to March 17, 2023	Varies by year of contract and number of copies	No maximum listed	\$462
Licensing Software	Software access and support	Sept. 1, 2020 to Aug. 31, 2025	Annual	\$5,550 per year	\$5,550
Legal Services	Administrative law judge/hearing officer	July 1, 2019 to June 30, 2022	\$125 to \$225 per hour for partners or associates depending on years' experience, \$60 per hour for paralegal services, \$40 per hour for law clerk services	\$5,000*	\$0
	Legal representation, opinions, and advice	July 1, 2019 to June 30, 2022		\$45,000*	\$19,938
	Administrative law judge/hearing officer	July 1, 2020 to June 30, 2021		\$5,000	\$1,441
	General counsel, administrative law judge/hearing officer	Sept. 1, 2020 to July 31, 2022		\$12,000*	\$5,685
	Prosecutions against licensees, rulemaking related to disciplinary matters, Board education	August 23, 2019 to June 30, 2021		\$100 per hour plus travel and expenses for attorney services, \$60 per hour for paralegal services, \$40 per hour for law clerk services	\$80,057*

*These maximum contract amounts are for the full contract periods, which cover more than one year.

**This contract is shared with the Louisiana Board of Behavior Analysts.

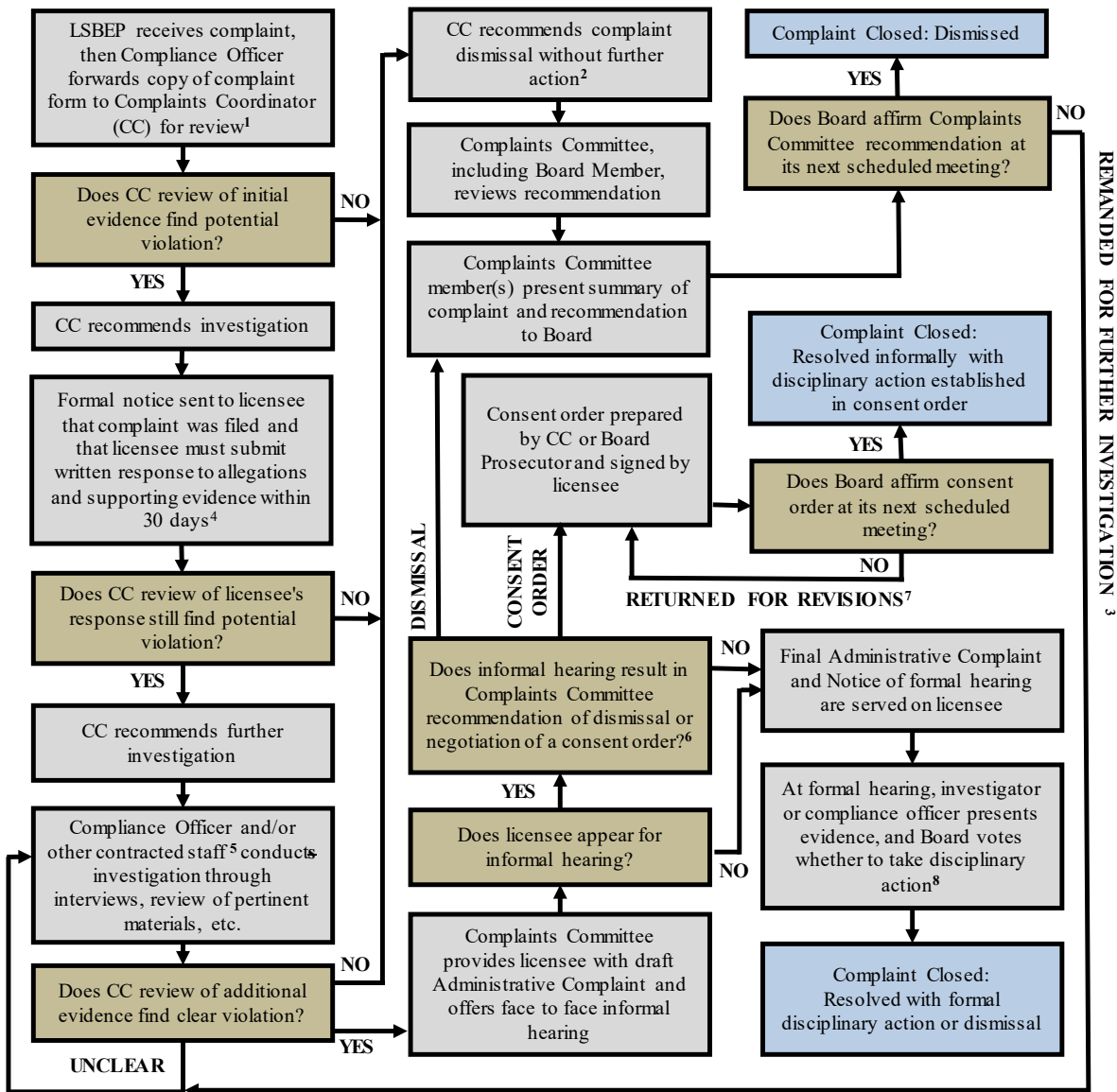
Source: Prepared by legislative auditor's staff using contracts and information provided by LSBEP.

APPENDIX D: LSBEP REVENUES, EXPENSES, AND NET INCOME (LOSS) FISCAL YEARS 2015 THROUGH 2021

Category		FY15	FY16	FY17	FY18	FY19	FY20	FY21	Total	% of Total
Revenues	Licenses	\$214,275	\$216,710	\$234,190	\$257,420	\$263,615	\$264,275	\$272,445	\$1,722,930	82.3%
	Examinations	26,200	24,150	13,575	18,100	12,175	11,750	15,450	121,400	5.8%
	License Verifications, Labels, Replacement Licenses	22,953	25,085	25,018	24,038	34,180	51,567	67,021	249,862	11.9%
	Other	263	0	50	41	53	59	59	525	0.0%
	Total Revenue	\$263,691	\$265,945	\$272,833	\$299,599	\$310,023	\$327,651	\$354,975	\$2,094,717	100.0%
Expenses	Salaries and Related Benefits	\$125,839	\$128,627	\$166,417	\$206,222	\$85,727	\$124,627	\$228,650	\$1,066,109	48.3%
	Operating Expenses	68,458	72,283	59,420	45,599	48,788	66,102	55,928	416,578	18.9%
	Professional Services	80,850	135,767	182,551	55,182	78,125	84,655	103,902	721,032	32.7%
	Acquisitions and Major Repairs	0	0	0	0	0	0	3,020	3,020	0.1%
	Total Expenses	\$275,147	\$336,677	\$408,388	\$307,003	\$212,640	\$275,384	\$391,500	\$2,206,739	100.0%
Net Income (Loss)		(\$11,456)	(\$70,732)	(\$135,555)	(\$7,404)	\$97,383	\$52,267	(\$36,525)	(\$112,022)	

Source: Prepared by legislative auditor's staff using information from <https://wwwcfprd.doa.louisiana.gov/boardsAndCommissions/selectBoard.cfm>.

APPENDIX E: FLOWCHART OF LSBEP COMPLAINT PROCESS FOR LICENSEES



¹ The Compliance Officer may contact the complainant(s) for additional information, documentation, or preliminary interview prior to forwarding the complaint to the Complaints Coordinator.

² If a complaint involved behavior that does not rise to the level of disciplinary action, but presents an opportunity for education or guidance from the Board to help avoid future complaints, the Complaints Committee can recommend that the Board dismiss the complaint with a Letter of Education without formal disciplinary action.

³ If the licensee had not yet been noticed at this point, the licensee would be noticed and given the opportunity to respond to allegations before investigation began.

⁴ Upon request and for good cause shown, the licensee may be granted an extension to formulate a response provided it will not interfere with any legal prescriptive dates.

⁵ Depending on the seriousness of the complaint, the Compliance Officer may assign a contracted investigator, contracted attorney, or Board member to the Complaints Committee before or after the Complaints Coordinator reviews the licensee's response. However, the executive director must approve involvement of a contracted attorney.

⁶ A consent order can be negotiated when the licensee acknowledges a violation occurred.

⁷ If the licensee does not agree to the revisions, they may invoke their right to proceed to a formal hearing.

⁸ Disciplinary action under R.S. 37:2359 requires the affirmative vote of at least four of the five-member hearing panel.

Source: Prepared by legislative auditor's staff using LSBEP policy.