

REGULATION OF THE MENTAL HEALTH COUNSELING AND  
MARRIAGE AND FAMILY THERAPY PROFESSIONS

LOUISIANA LICENSED PROFESSIONAL COUNSELORS  
BOARD OF EXAMINERS



PERFORMANCE AUDIT SERVICES  
ISSUED NOVEMBER 10, 2021

**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  
MISTY PERRY, MBA

**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.lla.la.gov](http://www.lla.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 \$2.20. 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.lla.la.gov](http://www.lla.la.gov). When contacting the office, you may refer to Agency ID No. 9726 or Report ID No. 40200026 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

November 10, 2021

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 Licensed Professional Counselors Board of Examiners (LPCBE). The purpose of this audit was to evaluate whether LPCBE effectively regulated the mental health counseling and marriage and family therapy professions during fiscal years 2019 through 2021.

Overall, we found that LPCBE has established regulatory processes that comply with state law and conform to most best practices. However, we found the Board needs to strengthen some aspects of its licensing activities to better protect the public and ensure licensees comply with the Louisiana Mental Health Counselor Licensing Act.

Although state law granted LPCBE the authority to conduct background checks on initial and renewing license applicants in January 2014, we found the Board did not start those checks for initial applicants until January 2019 and has yet to begin checks for individuals renewing their licenses. As a result, 3,627 (69.4 percent) of 5,223 current licensees had not had background checks as of June 2021.

In addition, LPCBE did not report 16 (34.8 percent) of the 46 adverse actions it issued against licensees to the National Practitioner Data Bank (NPDB), as required by federal regulations. We found as well that the Board is not required to query the NPDB before issuing or renewing licenses. That means it may be making decisions about applicants from other states without important disciplinary information.

We found LPCBE's process to resolve complaints and issue enforcement actions complies with regulatory best practices. The Board has developed timeframes for investigating complaints and has adopted a disciplinary matrix to help make consistent and appropriate decisions.

The Honorable Patrick Page Cortez,  
President of the Senate  
The Honorable Clay Schexnayder,  
Speaker of the House of Representatives  
November 10, 2021  
Page 2

During fiscal years 2019 through 2021, LPCBE received 425 complaints containing 458 allegations, with the most common allegation involving licensees engaged in unethical or unprofessional conduct. The Board issued 57 enforcement actions during this same time period. We reviewed 10 (17.5 percent) of these enforcement actions and found all were issued in accordance with LPCBE's matrix.

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 Licensed Professional Counselors Board of Examiners for its assistance during this audit.

Respectfully submitted,



Michael J. "Mike" Waguespack, CPA  
Legislative Auditor

MJW/aa

---

# Louisiana Legislative Auditor

Michael J. “Mike” Waguespack, CPA



## Regulation of the Mental Health Counseling and Marriage and Family Therapy Professions Louisiana Licensed Professional Counselors Board of Examiners

November 2021

Audit Control #40200026

---

### Introduction

We evaluated whether the Louisiana Licensed Professional Counselors Board of Examiners (LPCBE or Board) effectively regulated the professions of mental health counseling and marriage and family therapy during fiscal years 2019 through 2021 to ensure compliance with the Louisiana Mental Health Counselor Licensing Act.<sup>1</sup> LPCBE is legislatively mandated<sup>2</sup> to license and regulate persons who provide mental health counseling or marriage and family therapy. As of October 2021, LPCBE regulated 5,762 professional counselors, 1,400 provisional professional counselors, 1,153 marriage and family therapists, and 108 provisional marriage and family therapists.

The **mission** of LPCBE is to protect the public interest by regulating the practices of mental health counseling and marriage and family therapy.

Source: [lpcboard.org](http://lpcboard.org)

LPCBE was established in 1987<sup>3</sup> as a regulatory agency responsible for licensing all individuals who engage in the practice of mental health counseling and taking appropriate actions, such as revoking or suspending a license, if it identifies violations.<sup>4</sup> Act 1195 of the 2001 Regular Legislative Session gave LPCBE the responsibility of regulating the practice of marriage and family therapy, and Act 484 of the 2014 Regular Legislative Session gave the Board the additional responsibility to regulate provisional<sup>5</sup> professional counselors and provisional marriage and family therapists.

LPCBE is comprised of 11 members appointed by the Governor, including six licensed professional counselors, four licensed marriage and family therapists, and one consumer member. LPCBE has three full-time and three part-time staff members who perform administrative functions and assist with licensing, monitoring, and enforcement responsibilities, as summarized in Exhibit 1, and two contract lawyers who advise the Board and participate in investigations.

---

<sup>1</sup> Louisiana Revised Statute (R.S.) 37:1101, *et seq.*

<sup>2</sup> R.S. 37:1102, 1104, 1107, and 1116

<sup>3</sup> Act 892 of the 1987 Regular Legislative Session

<sup>4</sup> R.S. 37:1105

<sup>5</sup> Individuals who are only allowed to practice under direction and supervision of Board-approved supervisors while obtaining post-graduate degree experience required for licensure as a licensed professional counselor or licensed marriage and family therapist.

<b>Exhibit 1 LPCBE’s Regulatory Functions</b>	
<b>Functions</b>	<b>Examples of Activities to Accomplish Functions</b>
Licensing	<ul style="list-style-type: none"> <li>• Review and approve applications for licensure</li> <li>• Verify applicants received the required 40 hours of Board-approved continuing education for each biennial renewal period</li> <li>• Provide current licensee information to the public on its website</li> </ul>
Monitoring	<ul style="list-style-type: none"> <li>• Investigate complaints and other allegations of violations of the Louisiana Mental Health Counselor Licensing Act and Rules</li> <li>• Oversee licensees in the Professional Assistance Program</li> </ul>
Enforcement	<ul style="list-style-type: none"> <li>• Discipline licensees who have been found to violate the Louisiana Mental Health Counselor Licensing Act (probation, license suspension/revocation, etc.) and Rules</li> <li>• Report individuals the Board has disciplined to the National Practitioner Data Bank (NPBD) as required by federal law</li> <li>• Disclose disciplinary actions taken against licensees on its website</li> </ul>
<b>Source:</b> Prepared by legislative auditor’s staff using information provided by LPCBE, state law, and regulations.	

LPCBE is funded solely through self-generated revenues. In fiscal year 2021, LPCBE’s total revenue of \$829,729 included fees from license applications, renewals, and enforcement actions. The majority of LPCBE’s total expenses of \$765,660 in fiscal year 2021 were for operating expenses (\$341,380 or 44.6%) and salaries and related benefits (\$277,905 or 36.3%). See Appendix C for a breakdown of LPCBE’s revenues and expenses for fiscal years 2017 through 2021.

The objective of this audit was:

**To evaluate LPCBE’s regulation of the mental health counseling and marriage and family therapy professions to ensure compliance with the Louisiana Mental Health Counselor Licensing 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 LPCBE’s response to this report, and Appendix B details our scope and methodology. Appendix C summarizes LPCBE’s revenues, expenses, and net income for fiscal years 2017 through 2021.

**Objective: To evaluate LPCBE's regulation of the mental health counseling and marriage and family therapy professions to ensure compliance with the Louisiana Mental Health Counselor Licensing Act.**

Overall, we found that LPCBE has established regulatory processes that comply with state law and conform to most best practices. For example, LPCBE has developed timeframes for investigating complaints and has adopted a matrix that helps the Board ensure disciplinary actions are consistent and escalated based on the number and severity of violations. However, we found that LPCBE needs to strengthen some aspects of its licensing activities to better protect the public and ensure licensees comply with the Louisiana Mental Health Counselor Licensing Act. Specifically, we identified the following:

- **Although state law granted LPCBE the authority to conduct background checks on initial and renewing applicants in January 2014, LPCBE did not start conducting background checks on initial applicants until five years later in January 2019, and has not yet started conducting background checks on individuals renewing their licenses.** As a result, 3,627 (69.4%) of 5,223 current licensees have not received background checks as of June 2021.
- **LPCBE did not report 16 (34.8%) of the 46 adverse actions it issued to the National Practitioner Data Bank (NPDB) during fiscal years 2019 through 2021 in accordance with federal regulations. In addition, the Board is not required to query the NPDB prior to issuing or renewing licenses.** As a result, it may be making decisions without important disciplinary information on applicants from other states.
- **LPCBE's process to resolve complaints and issue enforcement actions complies with regulatory best practices. Specifically, LPCBE has developed timeframes for investigating complaints and has adopted a disciplinary matrix that helps the Board make consistent and appropriate decisions.** During fiscal years 2019 through 2021, LPCBE received 425 complaints containing 458 allegations, with the most common allegation involving licensees engaged in unethical or unprofessional conduct. During this same time, LPCBE issued 57 enforcement actions. We reviewed 10 (17.5%) of these enforcement actions and found that all 10 actions were issued in accordance with LPCBE's matrix.

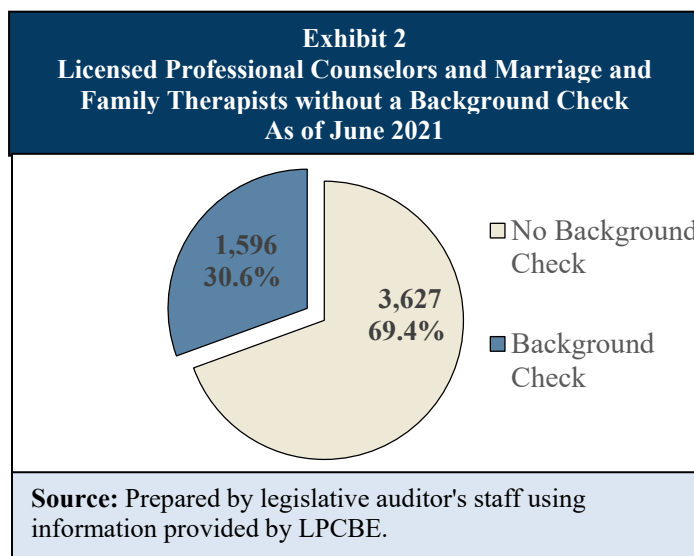
These issues are explained in more detail throughout the remainder of the report, along with recommendations to assist LPCBE to strengthen its regulation of the mental health counseling and marriage and family therapy professions.

**Although state law granted LPCBE the authority to conduct background checks on initial and renewing applicants in January 2014, LPCBE did not start conducting background checks on initial applicants until five years later in January 2019, and has not yet started conducting background checks on individuals renewing their licenses. As a result, 3,627 (69.4%) of 5,223 current licensees have not received background checks as of June 2021.**

To qualify for licensure, state law<sup>6</sup> requires professional counselors and marriage and family therapists to be of good moral character. State law<sup>7</sup> also requires LPCBE to deny, withhold, revoke, or suspend any license issued or applied for if the licensee/applicant has been convicted of or pled guilty to 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 January 2014, state law<sup>8</sup> granted LPCBE the authority to require initial and renewal applicants to provide fingerprints so that the Board could request national criminal history background checks to determine applicants' suitability and eligibility for licensing. In January 2019, five years later, LPCBE began conducting criminal background checks on initial applicants and for individuals whose licenses have lapsed. According to LPCBE, because the current LPCBE Executive Director was not hired until December 2017 and the majority of the Board members have changed since then, the reason for the delay in conducting background checks is unknown. However, as of June 2021, LPCBE has not yet started conducting background checks on renewal licenses. As a result, 3,627 (69.4%) of 5,223 current licensees have not received background checks as of June 2021, as shown in Exhibit 2.

According to LPCBE, it will start conducting criminal history background checks on renewal licensees before the next renewal period, beginning in 2022, and continue until all current licensees have received a background check. Once LPCBE has conducted a background



<sup>6</sup> R.S. 37:1107 and 1116

<sup>7</sup> RS. 37:1110

<sup>8</sup> R.S. 37:1123



check on an applicant, it can receive “Rap Back” notifications<sup>9</sup> from Louisiana State Police if any of its licensees are arrested after their initial background check. The Board had planned on conducting background checks on renewal licensees during continuing education audits beginning in 2020, but postponed this endeavor because the Governor’s emergency COVID-19 declarations suspended certain rules, including background checks.

**Recommendation 1:** LPCBE should begin conducting criminal background checks on renewal licensees until it has reviewed the criminal history of all current licensees.

**Summary of Management’s Response:** LPCBE agrees with this recommendation and stated that it will require all existing licensees to complete a criminal background check before his or her next license renewal. See Appendix A for management’s full response.

---

**LPCBE did not report 16 (34.8%) of the 46 adverse actions it issued to the National Practitioner Data Bank (NPDB) during fiscal years 2019 through 2021 in accordance with federal regulations. In addition, the Board is not required to query the NPDB prior to issuing or renewing licenses. As a result, it may be making decisions without important disciplinary information on applicants from other states.**

Certain entities, including LPCBE, other state healthcare licensing boards, and hospitals, are required by federal law<sup>10</sup> to report adverse actions to the National Practitioner Data Bank (NPDB) (*see text box at right*). These adverse actions include disciplinary actions taken as a result of a formal proceeding including revocation or suspension of a license, probation, limitations on the scope of practice, or rejecting an applicant, and would not show up on criminal background checks.

The **National Practitioner Data Bank (NPDB)** is a web-based 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](#)

**During fiscal years 2019 through 2021, LPCBE did not report 16 (34.8%) of 46 adverse actions it issued to 42 licensees to the NPDB in accordance with federal regulations.** Specifically, LPCBE failed to report 11 adverse actions and did not report five within the required 30 days. Of the 11 actions not reported, 10 were cease and desist orders issued to individuals who were practicing without valid licenses. According to LPCBE, it was not aware that it was required to report these actions to the NPDB. The nature of the other five cases included inappropriate relationships with clients, fraud, and an arrest for child pornography.

---

<sup>9</sup> The Rap Back service allows LPCBE 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 licensees.

<sup>10</sup> 42 USC § 1396r-2

According to the U.S. Department of Health and Human Services,<sup>11</sup> 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.

**In addition, LPCBE 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 applicants.** It is important that LPCBE collect all available information to make informed licensing decisions, ensure its licensees are of good moral character, and meet its mission of protecting the public because many professional counselors and marriage and family therapists work outside of supervised settings and with vulnerable populations. In addition to conducting criminal background checks, reviewing any disciplinary actions received in other states is another way that can help LPCBE determine whether applicants are suitable for licensing. This is especially important because, according to LPCBE, the number of Louisiana licensees who are practicing in other states has increased recently due to the increased practice of teletherapy during the COVID-19 pandemic.

Other Louisiana healthcare regulatory boards use information from the NPDB when making licensing decisions. For example, the Louisiana State Dental Board is required by state regulations<sup>12</sup> to utilize information from the NPDB to determine the professional ability, conduct, and character of all applicants seeking licensure. 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 after we conducted a performance audit on its regulation of the physical therapy profession.<sup>13</sup> Although LPCBE’s licensing process includes confirming that applicants have not been disciplined in other states if they disclose that have practiced in other states, these applicants may not disclose every state in which they have practiced. If LPCBE verified with the NPDB, on an ongoing basis, that licensees have not been disciplined in other states, it could better protect the public. The NPDB also offers a “Continuous Query” service that would notify LPCBE via email within 24 hours of a report received by the NPDB on LPCBE’s enrolled licensees.<sup>14</sup>

**Recommendation 2:** LPCBE should ensure that it reports all adverse actions to the National Practitioner Data Bank within 30 days as required by federal law.

**Summary of Management’s Response:** LPCBE agrees with this recommendation and stated that it will report all adverse actions to the NPDB in accordance with law. The Board’s unreported actions noted in the report were “cease and desist” correspondence intended in good faith compliance with the Act to reasonably regulate the unlicensed practice of mental health counseling in Louisiana. See Appendix A for management’s full response.

<sup>11</sup> <https://www.npdb.hrsa.gov/topNavigation/aboutUs.jsp>

<sup>12</sup> LAC 46:307, 707

<sup>13</sup> 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)

<sup>14</sup> As of August 2021, NPDB charges \$2 annually for each enrolled licensee (<https://www.npdb.hrsa.gov/hcorg/pds.jsp>).

**Recommendation 3:** LPCBE 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.

**Summary of Management’s Response:** LPCBE agrees with this recommendation and stated that it initiated querying the NPDB in October 2021. See Appendix A for management’s full response.

---

**LPCBE’s process to resolve complaints and issue enforcement actions complies with regulatory best practices. Specifically, LPCBE has developed timeframes for investigating complaints and has adopted a disciplinary matrix that helps the Board make consistent and appropriate decisions.**

LPCBE is authorized by state law<sup>15</sup> to investigate complaints and issue disciplinary actions to licensees who have been found to violate the Louisiana Mental Health Counselor Licensing Act. According to the Texas Sunset Advisory Commission,<sup>16</sup> agencies should have clear timeframes for complaint investigations to ensure streamlined case resolution processes, as investigations that are unreasonably long can prolong potentially dangerous situations for the public and disrupt a licensee’s practice.<sup>17</sup>

**During fiscal years 2019 through 2021, LPCBE received 425 complaints containing 458 allegations. During this same time, LPCBE resolved 220 (94.4%) of 233<sup>18</sup> complaints within an average 162 days, which complies with its internal goal of resolving complaints within six to 12 months.** According to LPCBE, it serves to protect the public by accepting and reviewing all complaints that concern licensees, and taking appropriate measures to respond to complaints under the Board’s jurisdiction. The 458 allegations included complaints such as unprofessional or unethical conduct, practicing without a license, and inappropriate relationships with patients, as shown in Exhibit 3.

---

<sup>15</sup> R.S. 37:1105 and 1110

<sup>16</sup> The Texas Sunset Advisory Commission is a 12-member legislative commission tasked with identifying and eliminating waste, duplication, and inefficiency for more than 130 Texas state agencies.

<sup>17</sup> [Texas Sunset Licensing and Regulation Model, August 2019](#)

<sup>18</sup> The 233 complaints include those both opened and resolved during fiscal years 2019 through 2021. The remaining 192 of the 425 total complaints received were dismissed or were still being investigated as of June 30, 2021.

<b>Exhibit 3</b> <b>Allegations Received by LPCBE, by Type of Complaint</b> <b>Fiscal Years 2019 through 2021</b>		
<b>Type of Complaint</b>	<b>No. Allegations</b>	<b>Percent</b>
Unethical or unprofessional conduct	188	41.0%
Unlawful practice, practicing out of scope, practicing without a license	48	10.5%
Failure to notify and/or cooperate, providing false information	32	7.0%
Inappropriate relationship with patient	25	5.5%
Breach of confidentiality	20	4.4%
Sexual misconduct or harassment	20	4.4%
Criminal activity and/or failure to report criminal activity	17	3.7%
Fraud, improper billing	16	3.5%
Child custody evaluation	15	3.3%
Failure to provide/maintain accurate and/or complete records	13	2.8%
Client abandonment	6	1.3%
Failure to report abuse	2	0.4%
Other (i.e., blank allegation, misreported to LPCBE, etc.)	56	12.2%
<b>Total</b>	<b>458*</b>	<b>100.0%</b>
*Some complaints contained multiple allegations. <b>Source:</b> Prepared by legislative auditor's staff using data provided by LPCBE.		

According to LPCBE, it has an internal goal of completing investigations and issuing disciplinary actions within six to 12 months. We found that LPCBE took an average of 162 days to resolve 220 (94.4%) of 233 complaints opened and closed during fiscal years 2019 through 2021, which complies with policy. LPCBE took longer than 12 months to resolve the remaining 13 (5.6%) complaints; however, according to LPCBE, some complaints take longer to resolve, such as criminal cases involving law enforcement and/or the judicial system. As a result of these investigations, LPCBE issued 57 enforcement actions during fiscal years 2019 through 2021, as shown in Exhibit 4.

<b>Exhibit 4</b> <b>Enforcement Actions Issued by LPCBE, by Type</b> <b>Fiscal Years 2019 through 2021</b>		
<b>Type of Enforcement Action</b>	<b>Number</b>	<b>Percent</b>
Public Reprimand*	17	29.8%
Suspension*	13	22.8%
Cease and Desist	10	17.5%
Non-Public Warning Letter	7	12.3%
Continuance Orders	5	8.8%
Voluntary Surrender*	4	7.0%
Revocation*	1	1.8%
<b>Total</b>	<b>57</b>	<b>100.0%</b>
*With or without additional requirements or restrictions <b>Source:</b> Prepared by legislative auditor's staff using information provided by LPCBE.		

**LPCBE has adopted a disciplinary matrix that assists the Board in issuing consistent and appropriate enforcement actions as recommended by best practices. We reviewed 10 (17.5%) of the 57 enforcement actions issued by LPCBE during fiscal years 2019 through 2021 and found these 10 actions were issued in accordance with this matrix.** As recommended by the National State Auditors Association (NSAA) best practices,<sup>19</sup> LPCBE's matrix includes graduated disciplinary action based on the number and/or the severity of the violations. For example, LPCBE publicly reprimanded and required a licensee with substance abuse issues to be monitored in the Professional Assistance Program, and when the licensee did not comply with the program requirements LPCBE escalated the discipline and suspended the license in accordance with its matrix.

---

<sup>19</sup> [Carrying Out a State Regulatory Program; A NSAA Best Practices Document](#), 2004



## **APPENDIX A: MANAGEMENT'S RESPONSE**







# LOUISIANA Licensed Professional Counselors Board of Examiners

---

November 1, 2021

*Via Email, U.S. Mail, and U.S. Certified Mail #7014 2870 0000 5200 7894*

Hon. 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](mailto:EDixon@LLA.La.gov)  
[MPerry@LLA.La.gov](mailto:MPerry@LLA.La.gov)

## ANSWER AND COMPLIANCE PLAN

On October 25, 2021, the Louisiana Licensed Professional Counselors Board of Examiners’ (“Board”) received Report No. 40200026 (“Report”) from the Louisiana Legislative Auditor (“LLA”), resulting from an ongoing performance audit (“Audit”).<sup>1</sup> Ms. Jamie S. Doming, 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: 11410 Lake Sherwood Avenue North, Suite A, Baton Rouge, LA 70816; (225) 295.8444; [lpcboard@lpcboard.org](mailto:lpcboard@lpcboard.org). The Louisiana Mental Health Counselor Licensing Act (La. R.S. 37:1101 *et seq*) (“Act”) clarifies the Board’s purpose is to regulate mental health counseling in Louisiana for the protection of the public health, safety, and welfare. At all times, the Board reasonably complies in good faith 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:

### I. RECOMMENDATION I

---

<sup>1</sup> Exhibit A – October 25, 2021, Audit Report No. 40200026; “Regulation of the Mental Health Counsel and Marriage and Family Therapy Professions” (CONFIDENTIAL).

The Board agrees with the Report, which provides in pertinent part, “[The Board] should begin conducting criminal background checks on renewal licensees until it has reviewed the criminal history of all current licensees” (“Recommendation I”). Further, the Board agrees to take all action(s) necessary to comply with and implement Recommendation I, according to the Audit, the Act, Administrative Procedure Act (La. R.S. 49:950 *et seq*) (“APA”), and other applicable law and oversight. Specifically, beginning in 2022, the Board will require all existing licensees to complete a criminal background check before his or her next license renewal.

## **II. RECOMMENDATION II**

The Board agrees with the Report, which provides, “[The Board] should ensure that it reports all adverse actions to the National Practitioner Data Bank [“NPDB”] within 30 days as required by federal law.” Further, the Board agrees to take all action(s) necessary to comply with and implement Recommendation II, according to the Audit, the Act, APA, and other applicable law and oversight. Importantly, the Board’s unreported actions noted in the Report were “cease and desist” correspondence intended in good faith compliance with the Act to reasonably regulate the unlicensed practice of mental health counseling in Louisiana. Regardless, the Board will report all adverse actions to the NPDB in accordance with law.

## **III. RECOMMENDATION III**

The Board agrees with the Report, which provides, “[The Board] should request ‘Continuous Query’ [reporting] from the [NPDB] for all applicants to ensure the Board receives accurate, timely notice of actions taken by other states and healthcare entities.” Further, the Board agrees to take all action(s) necessary to comply with and implement Recommendation III

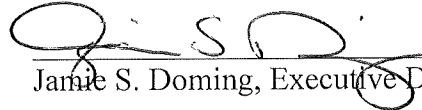
**LPCBE**

November 1, 2021, *Answer and Compliance Plan*

Page 3 of 3

according to the Audit, the Act, APA, and other applicable law and oversight. Specifically, the board initiated querying the NPDB in October 2021.

Please accept this Answer as submitted, and contact me directly with any questions.

  
\_\_\_\_\_  
Jamie S. Doming, Executive Director



## APPENDIX B: SCOPE AND METHODOLOGY

This report provides the results of our performance audit of the Louisiana Licensed Professional Counselors Board of Examiners (LPCBE). 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 LPCBE’s regulation of the mental health counseling and marriage and family therapy professions to ensure compliance with the Louisiana Mental Health Counselor Licensing 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. 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 Mental Health Counselor Licensing Act and the Social Security Act.
- Obtained and reviewed LPCBE’s policies and procedures including licensing, continuing education, complaint, investigation, and disciplinary, as well as its Self-Evaluation Report submitted to the Governor.
- Researched best practices, including guidance from the National State Auditors Association, the Texas Sunset Advisory Commission, other Louisiana healthcare regulatory boards, and other states’ professional counselor boards.
- Obtained and analyzed licensing data from LPCBE’s Content Management System (CMS) to determine the number of current licensees who were licensed before January 2019 and therefore did not have a background check.
- Interviewed agency staff to gain an understanding of the Board’s licensing, monitoring, and enforcement processes, including whether it queries the National Practitioner Data Bank (NPDB) during the licensure process.
- Obtained and analyzed complaint data from LPCBE’s CMS system and internal complaint spreadsheet. We used this data to determine how long LPCBE takes to resolve complaints, the number and type of complaints it receives, and the number of enforcement actions issued during fiscal years 2019 through 2021. Since

LPCBE's internal complaint spreadsheet did not contain the actual day of the month/year that complaints were closed, we used the first day of the month for our analysis.

- Obtained and reviewed Board orders to determine the type of enforcement actions issued by LPCBE during fiscal years 2019 through 2021.
- Reviewed LPCBE's website to determine if all enforcement actions were posted.
- Determined whether LPCBE reported all disciplinary actions to the NPDB within 30 days as required.
- Reviewed a random selection of 10 (17.5%) of the 57 enforcement actions issued by LPCBE during fiscal years 2019 through 2021 to ensure actions were issued and escalated in accordance with its disciplinary matrix. The results of this review were not projected to the entire population of enforcement actions issued by LPCBE.

## APPENDIX C: LPCBE REVENUES, EXPENSES, AND NET INCOME FISCAL YEARS 2017 THROUGH 2021

Category		FY17	FY18	FY19	FY20	FY21	Total	% of Total
Revenues	Licenses	\$585,102	\$606,337	\$531,544	\$536,426	\$596,328	\$2,855,737	76.3%
	Enforcement Actions	13,890	19,335	10,913	24,352	24,762	93,252	2.5%
	Other Revenue	102,310	135,633	156,822	191,772	208,639	795,176	21.2%
	<b>Total Revenue</b>	<b>\$701,302</b>	<b>\$761,305</b>	<b>\$699,279</b>	<b>\$752,550</b>	<b>\$829,729</b>	<b>\$3,744,165</b>	<b>100%</b>
Expenses	Salaries and Related Benefits	\$239,372	\$253,331	\$231,870	\$265,039	\$277,905	\$1,267,517	47.7%
	Operating Expenses	76,381	89,530	82,961	209,279	341,380	799,531	30.1%
	Professional Services	88,675	82,627	128,522	123,863	145,669	569,356	21.4%
	Acquisitions and Major Repairs	0	506	5,068	15,769	706	22,049	0.8%
	<b>Total Expenses</b>	<b>\$404,428</b>	<b>\$425,994</b>	<b>\$448,421</b>	<b>\$613,950</b>	<b>\$765,660</b>	<b>\$2,658,453</b>	<b>100%</b>
<b>Net Income</b>		<b>\$296,874</b>	<b>\$335,311</b>	<b>\$250,858</b>	<b>\$138,600</b>	<b>\$64,069</b>	<b>\$1,085,712</b>	

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