



# LOUISIANA STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

THIRD EDITION 2020

# NEWSLETTER

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## THE COMPLAINTS PROCESS

BY GINA GIBSON, PHD, ABPP

In another edition of where does the board's (your) money go... I present to you: the complaints process. Although the vast majority of psychologists are ethical and follow the rules of our profession, the few who do not can cause devastating damage to patients and the reputation of our field. Sometimes complaints are made against psychologists and other times complaints are regarding non-psychologists engaging in the practice of psychology. Regardless, the complaint must be thoroughly investigated. Complaints can be made by anyone: a consumer, an individual, or an agency. It is the duty of the board to carefully consider each and every one. So, sit back, relax and enjoy reading about the long process of investigating a complaint.

To protect privacy, complaint investigations are confidential and identified by number only unless formal proceedings are initiated. The board has established a clear, organized process to investigate complaints. Once a complaint is received, the board's compliance officer is responsible for processing the complaint to ensure follow through with the board's procedures. The compliance officer sends a general acknowledgement letter to the complainant (the person who made the complaint) and after vetting conflicts of interest, forwards the file to the complaints coordinator. Who is that you ask? Good question! The complaints coordinator is a psychologist who is contracted by the board to review the complaint, coordinate the investigation, and make recommendations to the board for dismissal or initiation of disciplinary proceedings. The final recommendation is presented to the board for approval.

When the complaints coordinator reviews a complaint, it could be determined to have no validity which would result in a recommendation to close the case. However, if the complaint is found to be valid, then it is assigned for further investigation. At this point the respondent (the person who the complaint is against) is notified and they have 30 days to respond in writing. This initiates a second review as the complaints coordinator considers the respondent's statements. The complaint can then either be dismissed or sent for a formal investigation. In a formal investigation, the entire file is turned over to the board investigator. Who is that you ask? Well, the investigator is a contract employee of the board who is a licensed private investigator. This individual is responsible for gathering all the available information about the complaint and presenting the findings to the complaints coordinator and the board.

A violation with a minor offense may result in the respondent being called to meet with the board or they may receive a letter of instruction. Violations with a significant offense result in either a consent order or a hearing (and that's where the big bucks start rolling out...). A consent order is when a psychologist acknowledges a violation and agrees to stipulations set by the board. Otherwise, the complaint goes to a formal hearing involving a jury made up of current or previous board members.

The Board is frequently asked questions such as, "Why doesn't the board protect the psychologist?" or "Why doesn't the board automatically dismiss complaints if they involve a dispute in a forensic matter or where the complainant is not happy with a disability determination?". As mandated by law, the Louisiana State Board of Examiners of Psychologists is an agency that exists for the protection of the public. The Board must take all complaints seriously. There is no way to determine the validity of a complaint without asking both parties for their side of the story through an investigation. The board recognizes that there are times that consumers are simply not happy with the work or recommendation of a psychologist, especially when it has a profound impact on their freedoms such as family, livelihood, or work.

In the not so distant past, the board was able to handle issues in a less formal manner. However, lessons learned through litigation and legislative mandates have resulted in more strict policy and procedures, including the involvement of attorneys at various stages in the complaints process. Attorneys cost money and the work they do is required to protect the board and its employees from litigation, ultimately ensuring the board is able to fulfill its mission of protecting the public.

Unfortunately, there are always complaints open and under investigation by the board. Depending on the complexity and validity of a case, it can take 3 months or even years to investigate a matter. Currently, there are 21 open investigations. There were 12 new investigations opened in 2020 so far and a total of 24 investigations in 2019. So, now you are up to speed on the time and money involved in processing complaints. Next time, I'll tell you about what the board does to ensure that non-psychologists do not engage in the practice of psychology.

## **LOUISIANA'S LEGISLATIVE PROCESS FOR DUMMIES BY A LOUISIANA DUMMY**

BY GREGORY KELLY GORMANOUS, PHD

Simply put, the Board's *raison'être* is ***Vigilantia ... pro bono publico*** (*Vigilance ... for the good of the public*).

Legislation is a prerequisite to achieving vigilance for the public good.

Many of us see the legislative process as complicated and convoluted, probably because it is sometimes. This brief overview is offered in two parts: I. Basic information about process and procedural steps; and II. A

historical overview (from me as an individual; that is, my views which do not necessarily reflect the views of the LSBEP).

### *I. Basic Information*

Procedurally what are the steps for legislation to be enacted?

1. Legislators prefile or file bills either in the House and/or the Senate in order to address particular issues in law or needs brought forth by some constituency. Note: Any bill may be amended at any point after filing.
2. The bill is assigned to a committee in the respective chamber(s).
3. The proposed bill is scheduled for hearing by the respective committee chair, usually at the request of the author.
4. If passed by the committee, the bill then goes to the floor of the chamber.
5. If passed by the chamber, it then goes to the other chamber & is assigned to committee. If passed by that chamber's committee, it goes to the floor of the chamber.
6. If passed it is sent to the governor for signing (or veto). A veto by the governor can be overturned by 2/3rds vote of both chambers. The bill becomes an act effective on a given date on the basis of the governor's signature or the overturned veto.

### *II. Historical Overview*

This general perspective on LSBEP's legislative past is selective (note there are senior psychologists with much information about institutional memory/legacy). The initial law was sponsored by Senator Edwin Washington Edwards and the law was enacted in 1964. Later a major effort was initiated to eliminate the requirement for licensed psychologists to consult with physicians when treating clients. This was during a time when psychologists got no respect. We were sometimes pejoratively ridiculed by medical practitioners as "psychiatric chiropractors" (at that time Louisiana did not have a license law for chiropractors). During the mid-80's, LSBEP went through what I characterize as a naïve phase. The Board would merely provide a white paper to the legislature, reasoning that the legislative process was rational and deliberative. Following that phase a more intentional view emerged which resulted in working with LPA for a major recodification of the law.

During the 90's the Board addressed refining credentialing, gatekeeping and scope of practice issues. Next grassroots efforts began advocating for prescriptive authority which culminated in success in March 2004. The Board also dealt with other issues such as behavior analysis and other scope frictions with kindred professionals.

Currently the LSBEP is actively engaging in collaborative efforts on possible legislation with representatives of professional associations (LAMP, LPA, & LSPA) as the Board tries to address both housekeeping and substantive issues. In the view of the Board, substantive clarifications are needed with respect to making the Board less vulnerable to unwarranted and unfounded litigation when protecting the public. As the board addresses any changes in legislation, it is incumbent upon us to do so in such a manner as to not act as market providers. Note that LSBEP must be clear that it is not violating federal antitrust laws. This is the effect of the US Supreme Court ruling in *North Carolina State Board of Dental Examiners v. FTC*. This point is especially relevant since a controlling number of the Board's decision makers are active market participants in psychology; that is, the Board cannot unreasonably restrain trade. Other substantive efforts involve enhancing public protection and what I characterize as bringing the Board into the 21<sup>st</sup> century.

In summary, trends have shifted from earlier emphases on credentialing (who is a psychologist) and scope of practice (what a psychologist does) to investigating complaints, providing legal justifications for enforcing ethical and professional standards (eliminating bad actors) without violating federal antitrust laws and ensuring the Board has a solid foundation to fulfill its mission to protect the public (board sustainability).



## MEET THE BOARD

BY GREGORY KELLY GORMANOUS, PHD

As part of our ongoing series to introduce readers to the people behind “The Board,” we’ve chosen to highlight our newest board member, Dr. Shannae Harness. Dr. Harness joins the Board for the 2020-2025 term and was interviewed by Dr. Gregory K. Gormanous. Please welcome Dr. Harness!

Q & A’s:

1. GKG: How did you become interested in LSBEP?

SH: *I became interested in LSBEP while going through the licensing process. I was intrigued by the work of the board, especially as it concerns licensees moving through the licensure process.*

2. GKG: What do you do when you are not serving as the newest Member of LSBEP.

SH: *I work in clinical practice as a psychologist providing psychological services to children, adolescents, and adults. In my free time, I enjoy being a foodie, traveling, shopping, and spending time with my friends and family.*

3. GKG: What has most surprised you about serving on LSBEP?

SH: *I was most surprised by the board's grave financial condition as well as the amount of time actually required to carry out the business of the board in order to protect the public. Being on the board is truly a labor of love and I am pleased to be serving on LSBEP.*

4. GKG: What are some of your goals for your LSBEP service?

SH: *The LSBEP was established to protect the public from the unauthorized and unqualified practice of psychology. I am pleased to have the opportunity to serve the psychology community in protecting the public from the improper application of psychology. In order to assist the Board, one of my goals is to be a catalyst for change by opening the lines of communication within this field during the process of licensure and the maintenance of competent psychologists. My role as a regulator in enforcing the laws, standards, and ethics code is to be transparent and timely in carrying out the matters of the Board (e.g., processing complaints, rule making, etc.).*

*Another goal for my tenure on the Board is to promote diversity and encourage open dialogue about mental health issues that affect the under-served populations in Louisiana. This is a population that often does not present for help due to the stigma associated with treatment. Furthermore, many are often incarcerated due to lack of receiving mental health interventions. I would like to focus on bridging the mental health divide*

amongst people of diverse backgrounds, and bring awareness to these issues when participating in rule making activities.

Lastly, the face of psychology has evolved over the past few decades when it comes to diversity among licensure applicants. These individuals have different emphases in training and present different competencies. As such, the Board needs to stay abreast of the current laws, standards, and ethics within the field of psychology.

5. GKG: What do you wish the Psychology community better understood about LSBEP?

SH: I would like the Psychology community to better understand the role of board members and staff that conduct the day to day operations of LSBEP including the time that is spent in rule making activities, enforcing the standards of practice to protect the public, and the necessary steps involved in processing complaints. I would also want the Psychology community to understand the amount of financial resources that are needed in order to appropriately carry out matters of the Board.

**BOARD MEMBERS**

**Chair:** Amy M. Henke, Psy.D.

**Vice Chair:** Gina L. Gibson, Ph.D.

**Member:** Gregory Gormanous, Ph.D.

**Member:** Michelle B. Moore, Psy.D.

**Public Member:** D. Chance McNeely, MPA

**Member:** Shannae Harness, Ph.D.

**PERSONNEL**

**Executive Director:** Jaime T. Monic

**Compliance Officer/Investigator:** Justin Owens

**CONTRACT PERSONNEL**

**Accountant:** Valerie Dominique, CPA

**General Counsel:** Lloyd Lunceford & Amy Groves Lowe

**Prosecuting Attorney:** Courtney P. Newton

**Complaints Coordinators:** Sasha J. Lambert, Ph.D. & Mark P. Vigen, Ph.D.

**Investigators:** Tony McCoy & Henry Richardson

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**NOTICE:** In compliance with Act 655 of the 2018 Regular Session, the LSBEP hereby gives notice to its licensees and applicants of their opportunity to file a complaint about board actions and board procedures. You may submit such complaints to one or more of the following organizations:

- Louisiana State Board of Examiners of Psychologists: **Submit in writing to:** LSBEP, 4334 S. Sherwood Forest, Blvd., #C-150, Baton Rouge, LA 70816; [admin.lsbep@la.gov](mailto:admin.lsbep@la.gov); (225)295-8410
- Committee on House & Governmental Affairs, La. House of Representatives: **Submit to:** [H&GA@legis.la.gov](mailto:H&GA@legis.la.gov) or Committee on House & Governmental Affairs, La. House of Representatives, PO Box 44486, Baton Rouge, LA 70804; (225) 342-2403
- Committee on Senate & Governmental Affairs; La Senate: **Submit to:** [s&g@legis.la.gov](mailto:s&g@legis.la.gov) or Committee on Senate & Governmental Affairs; La Senate PO Box 94183, Baton Rouge, LA 70804; (225)342-9845

**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.*