

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting Wednesday, March 29, 2023 Senate Room F State Capitol Building

The items listed on the Agenda are incorporated and considered to be part of the minutes herein.

Chairman Luneau called the Legislative Audit Advisory Council (Council) meeting to order at 10:06 a.m. Ms. Tanya Phillips called the roll confirming that a quorum was present.

Members Present: Senator Jay Luneau, Chairman
Senator Beth Mizell
Senator Jimmy Harris
Senator Louie Bernard
Senator Fred Mills
Representative Barry Ivey, Vice Chairman
Representative Barbara Freiberg
(Proxy for Representative Edmond Jordan)
Representative Vanessa LaFleur
(Proxy for Representative Aimee Adatto Freeman)
Representative Rodney Schamerhorn

Members Absent: Representative Stephanie Hilferty

Also Present: Michael J. "Mike" Waguespack
Louisiana Legislative Auditor (LLA)

Approval of Minutes

(Video Archive Time 01:46)

Senator Mills offered a motion to approve the minutes of the December 15, 2022 meeting and, with no opposition, the motion was approved.

(Video Archive Time 02:27)

Performance Audit Report – Implementation Status of Recommendations from Select Performance Audits Issued During Fiscal Years 2019 through 2020

Presented by Louisiana Legislative Auditor (LLA) Performance Audit Manager Krista Baker-Hernandez

Ms. Baker-Hernandez stated that recommendations made in the performance audit reports are intended to improve agency programs and state government operations; however, auditees must implement these recommendations or address

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the audit findings in some way to achieve the desired improvements. Performance Audit Services follows up on previous reports in different ways. First they may conduct comprehensive progress audits, which includes in depth auditing procedures, to determine the degree in which the recommendations were implemented. Performance Audit Services also conduct status updates where an agency is asked to provide status updates and conduct work to verify their response. For example, status updates have been conducted on Capital Area Groundwater and New Orleans Sewerage and Water Board performance audits. However, because of time and resource constraints, LLA can't do this for all previously released reports. Each year, Performance Audit Services asks auditees to attest to their progress in implementing recommendations from performance audits issued approximately two years earlier and this information is compiled into a report. The implementation status of recommendations can either be fully implemented, implementation in progress (auditee has started but has not completed implementation of a recommendation), partially implemented (auditee implemented a portion of a recommendation and has chosen not to or do not intend to implement the rest of the recommendation) or not implemented (auditee chooses not to implement a recommendation or they have not yet been able to but they do plan to implement later). Performance Audit Services requests documentation to verify the auditee's response and, if the provided documentation does not support the reported recommendation status, we revise the status. When necessary, we do conduct further research to confirm the responses, but we do not conduct in-depth auditing procedures such as file reviews or data analysis. However, we may determine in the future that an audit included in our annual review does require a comprehensive follow-up or progress audit.

In the last two years, we have compiled this review into an Implementation Status of Recommendations report. Our latest report was issued in February 2023 and it covered 58 recommendations from 10 performance audits issued during fiscal years 2019 and 2020. We found that 81% of the recommendations were either implemented, partially implemented or in the process of being implemented. In addition, our previous implementation status report showed that 78% of the recommendations were either implemented, partially implemented or in the process of being implemented.

Ms. Baker-Hernandez advised that Representative Freiberg filed legislation in the 2023 Regular Session (HB 288) that includes requiring auditees to report their progress in implementing recommendations. This will help our office obtain the information and provide it to the Legislature in a more-timely manner.

Senator Mills asked what LLA does when there is an agency that says we are not implementing the recommendation(s) because we do not agree with you. Ms. Baker-Hernandez said in the status report we include the status and we summarize what the agency has provided us. For those that have chosen not to implement the recommendations it's sometimes because they disagree with the recommendation or finding. LLA simply reports what the agency tells us. That's about all we can do. Senator Mills asked if there was anything in the report where the board or agency says we are not interested at all in your recommendations? Ms. Baker-Hernandez

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replied that oftentimes when an agency is choosing not to implement a recommendation, they give the same response as they did in the original report – “as we stated in our previous response, we don’t agree with the recommendation” or oftentimes the agency thinks we are already meeting the recommendation.

Senator Luneau advised the committee that when we select the audits to review with this committee we bring the problematic ones. We try to bring those to the forefront so we do have a process to look at those things. There was a time we weren’t doing performance audits and there was a time there were accusations that we were doing performance audits to attack an agency. We have worked on that the last few years. We are trying to accomplish stopping the problems before we have them. Most of the time, the findings are minimal or not at all so that’s good.

(Video Archive Time 10:44)

Performance Audit Report – Louisiana Department of Health (LDH) Progress Report: Medicaid Behavioral Health Services

Louisiana Legislative Auditor (LLA) Performance Audit Data Analytics Manager Chris Magee and Performance Audit Senior Data Analyst Brent McDougall

Louisiana Department of Health (LDH) Kathy Stubbs and Amanda Joiner

Mr. Magee stated that when LLA feels like we need to do take an in-depth look at an agency, either because there were issues or simply because a lot of work was done in the past on the topic, we will conduct a comprehensive progress report. That’s what we are presenting today -- our progress report on Medicaid Behavioral Health Services. The goal was to identify the progress made by the Louisiana Department of Health (LDH) in addressing any issues that we identified in the Behavioral Health program or to identify any additional areas we needed to look at – this was for LDH’s Behavioral Health Section and the Program Integrity Section to identify risky provider billings.

Between May 2019 and March 2021, LLA’s Performance Audit section released five reports that identified ways LDH could strengthen its monitoring of Specialized Behavioral Health (SBH) services. Enforcing program requirements through data analyses or edit checks, non-compliance may indicate improper payments or potential fraud. The Behavioral Health Provider group has been focused on pretty significantly by LLA, LDH Program Integrity Program and the Attorney General’s office and one of the reasons is because 40% of fraud referrals and case notices that occur in the Medicaid program are for behavioral health providers. Of all the various provider groups this one accounts for 41% of case notices and fraud referrals. There are three main SBH procedure codes that we analyzed that total approximately \$824 million over a five year period. So they are on the radar for

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potential fraud and it's a high dollar amount so it's one from a risk perspective and is one we naturally have looked at.

We found that of the seven recommendations we made in our previous reports, LDH implemented three, was in the process of implementing two and had not yet implemented two other recommendations. Throughout this report, since we are following up on so many different reports, we conducted a lot of analyses so we are going to try to hit them at a high level.

Mr. McDougall began by saying his presentation will mainly focus on whether or whether not the recommendations LLA previously made were implemented by LDH and then we will discuss new recommendations and analyses we performed for this report.

» LLA looked at requirements that individual providers be identified in all Medicaid services that were billed since August 2019. What we found is that LDH implemented two recommendations to ensure all claims and encounters included the National Provider Identifier (NPI) of the individuals providing services. As a result of the implementation of these controls, the amount of paid for services lacking the individual NPI decreased from \$10.5 million in our first audit to \$48,000 in this audit. This audit did identify one provider that did not include the required NPI but according to LDH it does not require this provider to comply with this regulation because that provider has an approved provider specific rate that is used. The only issue we found is that it does not appear state law currently allows for any exception to be made to this rule.

» The second finding regarding controls that had been implemented based on LLA's original reports, LDH implemented one recommendation to prevent individual providers from billing more than 12 hours of services per day. This appears to have initially decreased the amount of potential improper payments. However, LDH suspended this control in April 2021, and, as a result, LLA identified 825 individual providers who billed for more than 12 hours of services per day which totaled at least \$582,000 paid for services billed in excess of the 12 hours.

Senator Luneau stated if he remembers I remember correctly in previous testimony dealing with these issues, these providers are allowed to self-report if they find they that either they made a mistake or an employee is improperly billed is that accurate? Mr. McDougall stated yes, sir that is accurate. Senator Luneau asked if they are doing that are the individual providers doing that? Mr. McDougall responded that would be a question for LDH to answer. The way LLA performs its analyses is based on the claims that have been paid as of the last date we received we received the Medicaid data. For this it would be September 2022. Mr. Magee said it's likely throughout that process some were submitted and paid and reversed later on. If any of that occurred, those are not included in our analyses. It's really only those that were paid as of September 22, 2022. Mr. McDougall said we have seen that in the past for both the NPI requirement and 12 hour requirement where

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ones that have been flagged prior have been dropped off and we actually saw that with these results as well.

Mr. McDougall stated LLA will now discuss recommendations that have not been implemented.

Senator Mizell asked to follow-up on Senator Luneau's question. Her first Audit Advisory meeting was a nightmare story of situations that, as she saw it, were going to be rectified by the recommendations being made by LLA. So when they [LDH] suspended the edit check, did they give you a reason because apparently it was working very well. Mr. Magee responded yes, they did. The error level had fallen to less than .5%, I believe, so LDH felt like because it was so low they could suspend it. However, since LLA pointed out this issue, LDH is re-implementing that edit check. Hopefully going forward those results will continue to improve. Mr. Magee stated that on the 12 hour requirement, because the provider may be contracted with multiple Managed Care Organizations (MCO) they may bill a few hours to each of them. So to each of those MCO's it may not look like the provider is billing more than 12 hours. It's only until all of the claims are aggregated that LDH can identify it. It's always going to be a post fix because until they know 12 hours has been paid, or more than 12 hours has been paid, that they can say okay let's go claw back 4 hours that were over the 12. There will always be some results on this issue, but keeping the control in place will help to continue to identify those.

Senator Luneau asked wouldn't we be better off to have a single MCO for these providers? Would that eliminate that problem? Mr. Magee -- I think we may be getting deeper in Medicaid access questions. I think if you only had one MCO there wouldn't be competitiveness for provider network adequacy. I don't want to speak too much on that but I think LDH can speak on it. Senator Luneau seems like a common sense approach to me. Mr. Magee said the only agency receiving this information on a daily basis is LDH. So if there is only one MCO then you need to be checking as soon as they go over 12 hours to identify that right away to try to rectify that situation as soon as possible.

Representative Ivey stated that as an alternative to a single MCO, why not have LDH create it's own portal for requiring all of the MCO's and their providers to report claims so that way if we inject LDH at that first step they can aggregate the claims that are being made and filed and the MCO's can actually access that and everything gets submitted to them. I believe we are getting whatever is filtered through the MCO. Mr. Magee responded the providers submit claims to the MCO's, the MCO's determine whether or not to pay that, adjudicate the claim, that information is then sent to LDH so the process you described is correct. I'm just not sure from a private business perspective how that would all work.

Representative Ivey stated we can mirror whatever information they need but this MCO doesn't care about claims being filed with this MCO. LDH does and it's in the state's interest that we mitigate potential fraud. We are probably always going to have multiple MCO's so we need a solution. Representative Ivey asked do you

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think if LDH was the single source of entry for the claims and LDH created a program internally and basically in real time have all of that data would they be able to better manage those outcomes than the way things are set up now even with some of the LLA recommendations? Would that be a better model in your opinion to mitigate the fraud? Mr. Magee responded he was not sure without thinking about the mechanics of how it would actually work. That would take a lot of manpower to actually adjudicate all of those claims. He stated he knew the MCO's have their own staff to adjudicate those claims. Representative Ivey – it's not adjudicating. It's initial reporting. What you can't know is you have 12 hours of claims being filed under this MCO and 12 hours being filed under this MCO over the same provider/worker for the same day. That's never going to come out under the current model until a pretty good while after versus if they both submitted that claim within a week of each other as soon as the 12 hours was exceeded it would at least programmatically throw a flag at LDH to get them involved. Mr. Magee responded that one other complication is that a provider has 365 days to bill for services they rendered. So a provider may provide services through one MCO and bill that MCO the next day or they may sit on a claim for others for 300 days. That would be a poor business practice. Representative Ivey said occasionally that may happen but is that more the outlier as far as the long delayed claims? Mr. Magee responded that is more an outlier but it may be associated more with the risky behavior we see. Representative Ivey -- which again is a flag. Mr. Magee said the LDH Program Integrity Section is here and they have developed risk matrices that we have discussed over the years so they may be able to speak about what they do along those lines.

Senator Luneau said nothing is simplistic when we talk about mental health issues. We eliminate a big problem if we only have one MCO. That, to me, is an easy decision.

Senator Mills said seeing so many issues of improper coding at \$10 million, improper coding of this -- does the state have vulnerability off the CMS side for any kind of claw backs because of this? Have you identified that? Mr. Magee said he is not sure of that and LDH may be able to speak to it. What LLA found from previous results, LDH is not just sitting on those results and doing nothing they are going through it and a lot of claims LLA initially identified have actually been reversed and corrected since the previous report. LDH is actually doing something about it and they do have a process going forward. Mr. McDougall said to reiterate one of the things we did for this audit, we took all the results from our prior audits and matched them up to the new results. This gave us the ability to see just how many have been removed from the system and reversed. Senator Mills asked if any of the vulnerability is on the MCOs?

Mr. Magee said he thinks with the billing that we are about to discuss and that you [Senator Mills] eluded to, it is their responsibility to make sure these things are coded correctly. Unless a provider has a specific agreement with the MCO, they are supposed to be following the fee schedule and, if they aren't, the MCO should be

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identifying that. The failsafe is for LDH to do something about it. Senator Mills asked if they are violating any contractual terms that they should be obligated to with their contract with LDH? That's where he finds – the contracts are so complicated. Are they breaching contract obligations if there are some claw back opportunities? Mr. Magee said he'd have to look into that. Senator Mills said he'd like to know -- we are always on the department but if they have been contracted to deliver those services are not providing those services that's the deep dive I'd like to see. Mr. McDougall responded that for the next part we are about to talk about regarding the coding and the rates that are used, MCO's do have the ability to pay at rates in excess of the LDH fee schedule, but what we did as part of our audit and what we've done in the past, is we contact all of the MCO's and obtain the NPI for those providers that have the approval or agreements to be paid at rates in excess of the fee schedule. For most of the MCO's, they let us know who is being paid at the fee schedule rate so that is taken into account. With regard to the coding we are going to talk about, the MCOs have the ability to validate the billings through other means than just the modifier and procedure codes. However, the requirements of the fee schedule to allocate the rates to be used for the different types of services is based on the modifier which is why we tie the two together and why we don't go into details on how you can validate the claim based on other things. We focused on the procedure codes and modifiers. Mr. Magee explains the modifier tells you the age of the recipient, the education level of the provider, where services were rendered, etc. It's a wealth of information that could be used for so many other reasons than just was it billed correctly. If it isn't captured in a uniform way we are depriving ourselves of using that information the best we can.

Senator Mills said for one more thing for everybody to look at -- if there is an overbilling because of their error I would hate for them to come back and their per member per month would be elevated and it shouldn't be there. It would be a ripple effect if they didn't meet their contractual terms. Mr. Magee said there absolutely is and I'm not an actuary but I do know enough to say if the cost of services are inflated that eventually makes its way into the rate and even if it's \$1.00 per person when you talk about the number of people on Medicaid, that will add up. Senator Mills – that adds up.

Senator Luneau said one of the things we've done in the past to catch some of the bad actors, information that's provided in the modifiers and various things like that, if you guys can respond to this later, or LDH can, I'm sure some portion of this is purely error -- just coding error and has to be corrected. Please address that at some point in time and let us know about that, too.

» Mr. McDougall said for this next section– what we found is that LDH has not yet implemented two recommendations to identify and correct SBH improper payments related to how claims and counters are billed but LDH has contracted with a vendor to do so and the first report regarding that is supposed to be due out prior to the end of fiscal year. What we found in this audit is that providers were paid \$10.7 million for services billed using incorrect procedure and/or modifier codes so by just

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looking at procedure codes and the four modifier codes, you could not determine, based on those, if the correct rate was paid for the services that were billed. We also found \$563,000 was paid in excess of the amount that should have been paid based on LDH's fee schedule. So essentially services were overbilled and the overbilled difference about on what should have been paid and what was paid was \$563,000.

» LDH has not implemented two recommendations to develop edit checks to prevent or flag certain potentially improper billings for review regarding in-patient overlaps, multiple providers providing services to a single individual and telehealth services. We identified \$223,000 paid for services billed where recipients received SBH services while they resided in an in-patient setting which is prohibited by the provider manual. The reason for that is they are supposed to be receiving those services from the in-patient facility not from another party providing the services. Mr. Magee said there are a few exceptions but we factored in all of the exceptions that are identifiable through the data itself. Senator Luneau asked for an example of an exception. Mr. Magee said an example is if a recipient is receiving tenancy support through the Permanent Supportive Housing Program, if the behavioral health medical director for the MCO makes the determination that it's medically necessary for continuity of care. We backed out anything that related to the housing. We backed out anything we can and these are the riskiest ones. If we look at them proactively we can ask the question -- was it approved or should this be denied? Is the provider willingly doing this or did they mistakenly do it?

» Mr. McDougall said we identified at least \$75,000 of services billed where two different providers were paid for providing services to the same recipient on the same day which is prohibited by the provider manual. I'm going to go into an example of this because this is a common trend we see with some of the analyses we performed. For example, during a prior audit, we identified 44 claims billed by two workers for providing one on one services to the same recipient on the same day during overlapping times. The beginning and ending times of each service are needed to determine if the times such as these overlap, however, LDH currently does not receive start and end times of services as part of the claim encounter data. As a result, LDH cannot determine if services billed for the single recipient by two providers on the same day overlap without obtaining additional documentation. LDH does require starting and ending times for services for other programs so there is precedent to capture this information. Further, in 2018 the Task Force on the Coordination of Medicaid Fraud Detection and Prevention Initiatives recommended LDH conduct a feasibility study to determine if there was a value in pursuing an electronic visit verification system which would capture the beginning and ending times. However, LDH did not pursue the feasibility study and stated in its response to this report that it does not plan to require starting and ending times for SBH services in the future because they are not required by CMS. So the additional documentation we used is the actual progress notes which are typed up for each service that is provided. Those are not submitted to the MCO's and those are not

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submitted to LDH which is why we were able to identify the beginning and ending times because this was during an audit of a specific provider.

Senator Luneau asked why that isn't submitted to the MCO's? Mr. McDougall said according to LDH it is not required by CMS. Mr. Magee said it's kind of like settling for the minimum instead of taking as much data as you could and really fixing the integrity of the program. This is something we have identified, the Medicaid Fraud Task Force that Senator Mills sat on, identified and made a recommendation about it. When we did the report that Mr. McDougall discussed earlier, New Horizon Counseling Agency, we had to get documentation and basically create data to identify start and end times. Senator Luneau you asked about coding errors. By having the start and end time it helps to figure out did person A and person B bill at the same time and say they were in two different locations? Or, in the data, we saw some examples, the data we gleaned from those notes, where a provider would say their start time was 10 a.m. and end time was 12 a.m. It is likely they meant to say 12 p.m., so it was likely a coding error and in our previous report that's how we described it, but you can't know that without the starting and ending times and that information is there it's just on paper right now. Senator Luneau said extracting that information might cost us 20 times the cost of the charge. Mr. Magee said it's more costly but whenever it comes to trying to detect and prevent these improper payments and potential fraud you want to know about it as soon as possible. In the instance Mr. McDougall described, if you had the start and end time you could have a flag as soon as those encounters come through from the MCO to say Medicaid recipient A received services at overlapping times from two different providers. This is something we need to look at. You can then trend it out to say this one provider does this all of the time that's who we need to look into.

Representative Ivey said he recalls vividly that the point you are making today was one of the primary points that you made three years ago and I will tell you that after that conversation besides how many hours which is an indicator but that only covers the total billing for one person. It doesn't show all errors we had when someone is trying to gain the system, not knowing the specific times, you can exploit it even greater than you can with just the total hours. To me this is a deliberate blind eye by LDH. We discussed this -- how do you not require this when you sign contracts with these MCO's? It can easily be stipulated as part of the contract that all claims have to have a start and end time. It's not a burden. It's just another piece of information the provider should have and should be able to put in when they are putting in the other data points they need to do to get paid. When there are conversations about the roll off of Medicaid expansion can we afford this? We don't do the things we can do to mitigate costly fraud. I don't know who we are helping. This is provider fraud. This is where the big fraud dollars are. I'm disappointed LDH did not try to elevate the game. In the model where LDH owns the portal you can require it -- you don't get past the next step to enter the information until you put the start and end time in. Senator Luneau responded by

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saying let's let LDH talk about that. Mr. Magee said to reiterate what Mr. McDougall said, there is precedent for this. It's been done in another Medicaid program, Home and Community Based Services. Anecdotally we have not done an analysis of this but as we understand it, when that control came into place, the dollars being spent in that program went down but some of those providers moved over into the behavioral health realm. It's the same providers in some cases who have gone over here. It's the same issue. The root issue is the potential improper payments and potential fraud. The solution exists and has been implemented for another program and could be implemented for this program. The data is already there, it's already captured. It's on the progress notes whereby data gets entered and submitted to the MCO's. It's just two additional fields that could be submitted – start time and end time. We will kind of hit on that for the rest of the presentation where start and end time could really help identify whether this is fraud, potential improper payment or improper coding and nothing willfully done.

» Mr. McDougall said the last portion of the report has to do with telehealth services. We identified \$1.9 million in payments for services billed by SBH providers who did not properly code the services as being delivered by telehealth. Requiring providers to use specific billing codes to identify telehealth services but not enforcing the requirement undermines the integrity of the program. Since the use of telehealth services was authorized, telehealth services account for \$163 million of the \$311 million paid for two of the most utilized SBA services. A lot of this is or could be improper coding. There are two required fields that are used to identify telehealth services -- the place the service was provided and the specific telehealth identifier code which is the modifier code. So for these services the claims had one code but not the other code. Senator Luneau asked if this was during Covid when we were changing coding from time to time and there were some issues? Mr. McDougall said this encompasses the pandemic through September 2022, but with regard to coding we took that into account when those changes were being made and the time that was done. Any changes done to the coding we accounted for it. Mr. Magee said if they are submitted improperly and the MCO's or LDH are monitoring for this proactively this they may say – you may have provided telehealth services and, if so, submit it with the right coding and they would get paid. This is one that maybe they are just choosing not to because it's another field they have to fill out. I'm not sure it's necessarily fraudulent per say but it goes back to improper billing and not entering the right information. Mr. McDougall pointed out that LDH has already implemented the control edit check for that finding. Mr. Magee said once we made the recommendation LDH implemented it right away as a result of this report.

» Mr. McDougall discussed the new analyses performed for this audit report. These are more recommendations for analytics LDH can perform to identify high risk services, not necessarily that these violated a law or policy.

The first is in regard to school age children. LLA found \$4.7 million paid to individual providers for providing eight or more hours of non-group services. The

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children were between ages 6-7 and the services were provided in their home on school days. So if they are attending school, the hours that they can be provided services are going to be limited other than done on weekends. Senator Luneau said so what if they are home because of mental health issue? Mr. McDougall said again these are recommendations to identify potentially improper payments. It's not violating any law or policy. It's just recommendations for ways to flag high risk claims. Mr. Magee said he thinks LDH Program Integrity would develop this as a red flag as a part of things they look at so if you see it's a one off or one person but if a provider is providing services to multiple children throughout the days or weeks it becomes a trend and then you figure out is there some special circumstances occurring with the various children or if it's something to do with the provider.

Representative Ivey said with respect to one provider versus another provider within the same community because someone in north Louisiana may have a very different experience than a provider in Orleans Parish or Baton Rouge. Did you do a trend analysis of the providers providing similar services to similar communities – if one provider is more of an outlier than another? Is it really more of a potential issue with the provider or is it a potential issue with that service? Mr. McDougall said we focused on the providers and service, not the location. Mr. Magee said it was based on provider. We didn't look at it geographically but in the past we discussed an audit report we did a few years back regarding New Horizon. We discussed a risk matrix we developed that looked across different models and different analyses. The providers who show up for doing this are the providers who show up across the board. They are billing for more than 12 hours, billing to see children at home on school days they are hitting all of these red flags. Whenever you use this in conjunction with other things, you say okay that provider is one we need to look into. So it's really just another flag to use in conjunction with everything else.

Mr. McDougall said what we found is, based on the amount of services billed, these providers would potentially need to work at questionable times of the day in order to provide the services. For example, one provider was paid \$1,110 for providing 16.5 hours of non-group services to six children in their homes on a school day. This would mean they did not include drive times between locations because they were in their homes. The provider would need to start working at 7 a.m., they would have to provide the services non stop and during school hours until 11:30 p.m. that night, and not have traveled from home to home which they would have done at least six times. As previously discussed, a prior LLA audit identified the instances where providers billed for providing services to two recipients during the same periods of time. We were able to identify these instances by obtaining documents which were necessary regarding start and end time. That information is not included in Medicaid data. Due to this, LDH cannot use Medicaid data to identify improper or fraudulent billing such as overlapping services or group services billed as individual services which we have seen before which we have seen in other audits.

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» Mr. McDougall presented the next analysis was in regards to children under the age of two years old. Behavioral health services are really mental health services. I'm not going to say they can't be provided to children two years old and under or children under six years old but generally they are not focused on that. In conducting other audits, Office of Behavioral Health's (OBH) medical director told us, in their opinion, they would not recommend this service being provided to children under the age of two. What we found is that providers were paid \$2.3 million for providing SBH services to 553 children under the age of two on the date of service. One provider was paid \$3,700 for providing 25 hours of services over the course of three days to a five month old. In the second example, one provider was paid \$1,100 for 9 hours of services provided to a nine month old.

These are examples of large amounts of services being billed as being provided to children under the age of two which, according to OBH's medical director, he wouldn't necessarily recommend. Mr. Magee said looking at the progress notes of the audit documentation of a previous audit, we see some of these young children are getting 2-4 hours of services in a day. It's very difficult to keep the attention of children five and under for a few minutes much less a few hours so whenever we see that data, those are things that hit that red flag. Again, it may be okay and it may be that that provider was providing babysitting services and billing them. So having that starting and ending time in the data would really allow you to know if this nine month old was receiving services from 9:30 p.m. – 11:30 p.m. Why is the child awake at that time receiving services? Having the start and end time is invaluable.

Senator Mills states we've gone above and beyond CMS' minimum requirements. As you guys continue to talk about the issues you are finding, is it more the MCO or is it more LDH because that's where we are always in the quandry because they are contracted out and have a ton of deliverables. Is it an MCO issue or an LDH issue? If the MCO is not meeting their contractual obligations that has a lot of ramifications. Mr. Magee said we typically audit the departments themselves. LDH is a contract monitor and is the only entity that has all of this information so they can see trends the MCO's can't. However, MCO (Managed Care Organization) with "managed care" being two of the main words should be seeing this. They are pre-authorizing these services in many cases and should be analyzing the data to see that a nine month old has received 25 hours of behavioral health services over a three day period and start to question those things and say is that provider the right provider for our network? If you are receiving services in that amount you may need more intensive in-patient services. There are lot of questions it raises but to go back to your question, I think it's both an LDH issue in terms of contract monitoring – are you complying with the contract but it's on the MCO's who are being paid to manage the care of these individuals.

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» Mr. McDougall states the next one to discuss is recipients who received more than four hours of mental health services a day. We identified over 12,000 recipients who received more than four hours of services during a single day. The providers of these services were paid around \$3 million for providing services that occurred after the first four hours. While some states do limit the amount of certain SBH services a recipient can receive in a day, according to LDH, it currently does not perform procedures to monitor, flag or review instances where large amounts of services are received by a recipient on a single day. Repeated billing for unusual amounts of services per day for individual recipients could be a sign of fraudulent billing practices. One example is eight hours of services provided to a nine month old. Another example is that a provider was paid \$730 for providing nine hours of SBH services to a six year old child on a Saturday. These are mental health services which LDH's Medical Director has recommended not being provided in excess of two hours a day for multiple days a week. We are looking at instances of four or more hours of services. Some states limit some of these services to 45 minutes a day, two hours a day, four hours a day. There is no single easy fit for it but if you look at it from a four hour perspective you notice children getting eight hours or other individuals getting 10 hours of services per day. Really, based on what LDH has told us, this type of service should be looked at needing some other form of services rather than SBH services. Mr. Magee said this falls under the 12 hour law – 4, 5, 6 hours, but again there are these indicators. It's not violating the law but it's an indicator when you take in the totality of the various analyses you will likely keep seeing the same names of the same providers. Mr. McDougall said Mr. Magee mentioned that LDH Program Integrity has developed their own matrix, I believe they call it a scorecard and I think that just began running. They have been developing this for a while and have now put it in place.

Representative Ivey states LLA is pointing out some of this information and it's disturbing that 10 hours of mental health service could fall through the crack. If that is falling through the crack then we know the little things just it's impossible – the question is who pays the bill? Is it LDH or the MCO? At the end of the day if the taxpayer is not on the hook for the bill then okay. If they want to provide services or not provide services and charge the MCO and the MCO is stroking the checks that's on them. Mr. Magee said it's the taxpayer but even more so, kind of thinking past the taxpayer, who is footing the bill? The problem is you have a citizen or a Medicaid recipient who may truly need these behavioral services but a provider is fraudulently billing for them may get to a maximum limit of receiving services, actually need them and not have them available. Representative Ivey – they are defrauding the recipient as well. Mr. Magee – right. It's everyone. It's the taxpayer and in many cases, the Medicaid recipient in many cases. Representative Ivey – please walk me through the process for where a taxpayer ends up being on the hook. Let's say there is 10 hours of services for a five month old, 10 hours of mental health services, that fell through the MCO crack but we don't know that until later. I'm assuming we already made the payment to the MCO before this is found out? Mr. Magee said the MCO's are paid through the PM's,

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PM's are on a monthly basis so the MCO is going to get their money whether they deliver no services or a million services. Representative Ivey asked if we identify the fraud are we able to claw back monies for payments? Mr. Magee responded that the MCO is able to claw back dollars and so is the LDH Program Integrity unit. It really depends on who identifies it first. Representative Ivey asked from who? Mr. Magee said from the MCO. Representative Ivey --- so the LDH Program Integrity unit can claw back money from the MCO, the MCO can claw back money from the provider. Correct? Mr. Magee responded correct. Representative Ivey asked how often does it happen? Is it proactive even though they don't have the data? Are they proactive with this? Mr. Magee says he thinks they are but LDH will be able to give you statistics and trends on that.

» Mr. McDougall said LLA has focused on using other state agency databases to perform analytics on separate state agencies. On this one we are going to talk about out-of-state driver's licenses. We identified 122 providers who were paid \$716,00 for providing services to 216 recipients who appeared to have resided outside of the state of Louisiana on the day services were billed as being provided. For example, the Louisiana Office of Motor Vehicles was notified in June 2021 that an individual obtained a new driver's license in the state of Missouri. However, a provider billed for providing 231 hours of services totaling over \$12,000 to this recipient over the following year.

» The last finding we have has to do with Louisiana Workforce Commission (LWC) and quarterly wage reports. We identified 397 behavioral health providers who were paid \$682 million for providing services during quarters in which they did not report any employee wages to LWC. Further, 209 of these providers were paid \$476 million and do not appear to have reported any wages to LWC during the scope of our audit, but may have reported them under a different Tax ID number although it's LWC's responsibility to monitor for employee misclassification which would be the non-reporting of employee wages. LDH is in a unique situation. They are aware of the individuals providing SBH services and the businesses to which the payments are being made for the services. Due to this, LDH has access to data that can identify classified workers not available to LWC. In its response, LDH agreed to incorporate the new analyses we discussed; however, they stated they do not plan to perform this analysis to identify providers who are not complying with state law to require quarterly wage reports filed with LWC.

» To end the presentation, Mr. Magee stated that the theme of a lot of our [LLA] data work is to bring the state closer together. We are all serving the taxpayers and citizens of Louisiana. Through various audits, like the Sex Offender Registry which we presented to this committee, we recommended they obtain LWC data and death data to better know where those sex offenders are or if they are still alive and they implemented those things. We worked with Medicaid on their quarterly wage data they receive from LWC to perform that check more frequently. So a theme of a lot of our work is trying to bring executive branch agencies closer together and share the data because we all serving the same constituents.

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» LLA made one matter for legislative consideration for this report in we made recommendations to LDH. LDH fully agreed with four recommendations, partially agreed with two recommendations and disagreed with one recommendation – that one was about obtaining starting and end time for services.

Karen Stubbs, Assistant Secretary, Office Behavioral Health, Louisiana Department of Health and Amanda Joiner, Deputy Assistant Secretary, Office of Behavioral Health, Louisiana Department of Health

Ms. Karen Stubbs, Assistant Secretary with Office Behavioral Health, Louisiana Department of Health. Ms. Stubbs states she has in attendance members of the LDH Program Integrity unit, Amanda Joiner, Deputy Assistant Secretary over many things in Office of Behavioral Health and in today's meeting relevant to all things data analytics looking line by line at claims with LLA. We also have Robin McDermott, Deputy Assistant Secretary and she is over all things behavioral health within the Medicaid program. I would like to start, this wasn't planned that they ended by acknowledging the legislative auditors assigned to behavioral health. We have been matched with this set of auditors for years and the consistency has been a benefit to the program, the audits and to how deep we are able to go in to these audits. They are nothing but respectful and patient and while we might sometimes fundamentally disagree, it's a real working relationship and I think this report shows a lot of progress. While there is not 100% elimination of fraud, waste and abuse it actually shows quite a bit of progress.

This audit is a little different than previous audits. It references many different audits. It compares many different time frames. The object of this audit was to analyze the progress made by LDH in previous audits. I'm going to highlight some of those things but I do not want anyone to think we are satisfied with the numbers but some of the progress in here shows a lot of improvement through the partnership with LLA and also the leadership of the department.

There are seven reviews of past audits. It's broken out into three categories -- two of the recommendations LLA said LDH met. Three of the recommendations said we are in the process of implementing and acknowledged it's what LLA recommended. Two of the recommendations at the end said we didn't meet but if you read the content, three of those four areas they highlighted LDH either concurred or LLA said we had implemented the edit check so it really starts to get convoluted. There were eight formal recommendations. LDH agreed or partially agreed with seven recommendations. The reason we don't always fully concur is not because we disagree with the finding theoretically or the outcome, we just disagree on how to go about that. You will see I talk about, for example, the same day/same service. LLA wanted to change the form. LDH offered alternatives and you see a decrease

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from \$806,000 to \$75,000 in this audit through the two alternatives we [LDH] suggested. So it's usually a disagreement on how to get there. There was one recommendation where we did not agree but again LDH offered had alternatives on how to proceed.

A few examples of the improvements in the first section of findings where LLA talked about areas LDH had met, they discussed how were reduced it from \$10.7 million to about \$600,000. In the section where it says we not yet met but acknowledged we had a contract starting even though we had not yet met it we reduced it from \$66.5 million to \$11 million. And then in the section that says we have not met those, it gave an example of reducing the findings from previous audit to this audit from \$806,000 to \$75,000. I believe that demonstrates that LDH did not turn a blind eye to these audits. We've worked really hard with and without the auditors and it's a constant evolution and a really big job. So with that, I appreciate this audit. The last part of it gives us a lot of information to kind of dig in for the next round.

Senator Luneau said it seems like it would behoove us to have a single MCO for specialized behavioral health. Does LDH agree? Ms. Stubbs said that during that conversation it was in the course of the 12 hour rule so she pointed out data the auditors use that even with 5 MCO's we reduced the non-compliance to .05% and that was with 5 MCO's. It wasn't until we met that substantial compliance and we stopped running the quarterly reports that you saw non-compliance kick back up and, by the way, we reinstated that. So it goes to show that even though one MCO might be more convenient we demonstrated that we got to .05% with 5 MCO's. Senator Luneau said he thinks that's possible but difficult. If you don't keep that program going we are going to see it go up. With one MCO you almost eliminate that. You can't eliminate everything but can get real close. The one complaint he gets from providers is that there are different rules, different reporting dates, and different coding – it just seems like to me we eliminate all of those complaints and all of those issues with one MCO that covers this specialized health care. Let's put some thought in that.

Representative Ivey – I do want to acknowledge the hard work LDH has done and we are very appreciative of your collaboration with LLA. So start time, end time. It doesn't sound complicated and was addressed three years ago. Would you say this is an LDH internal perspective or maybe from the MCO's and how they want to manage it and something they don't want to do? Ms. Stubbs said this particular part of the audit was the same day service highlighting start time and end times might assist. During testimony they highlighted we did not concur with that finding. What is written in the report but is not highlighted in testimony is we did not concur with changing the CMS form to have it submit encounters. We did, however, implement two alternative measures one within the MCO and one with LDH. Those two measures got us from \$806,000 to \$75,000. What we saw during that time is that the MCO's – within progress notes our requirements require the provider to document start time and end time. The MCO's quality reviews help to shape some

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of the provider activity. In addition to LDH, it was both MCO's and LDH's Program Integrity team started to also audit the records of those as well. So without so they were right CMS does not require it. That's not the reason – we said CMS does not require it it's a huge system change and we have a couple of other options that have demonstrated in their report that it had a significant effect. Representative Ivey -- you said a lot of stuff there but I want to be clear you mentioned submitted encounters is that the platform? Ms. Stubbs said they recommendation was well they are often used interchangeably a claim or encounter or invoice into the MCO saying I did this with this person on this date this is the rate and it cycles through the MCO's and comes to a central repository in LDH. That's how we are able to pull data. Representative Ivey asked -- so the claim/invoice encounter all of the information is submitted to the MCO and then you receive all of that information or certain elements of that information? Amanda Joiner, Deputy Assistant Secretary, Office of Behavior Health responded – the provider submits the claim to the MCO and then they submit encounter data to Medicaid Fiscal Intermediary – the MCO submits that to LDH and it is a partial submission of the claims data. Representative Ivey said so it hits key data elements. Just to get back to the start and end times those are not fields that are not available fields so they don't exist in the CMS claim forms that have to be used on a national level for Medicaid claims so that's the immediate barrier to simply saying hey submit those fields. A lot of fields are optional but those don't exist on the CMS claim forms. Representative Ivey said we call them CMS claim forms but they submit them electronically so it's irrelevant from the perspective of the user interface can have whatever they want. Ms. Joiner said the format is required by CMS. Representative Ivey asked if it prohibits additional fields? Ms. Joiner said there can be ad hoc or addendums to claim information but it's not an optional or required field. The issue there, again, that's why we require the MCO to capture the start and end times in their progress notes and medical records. Representative Ivey says that's part of the challenge from an audit perspective. It's a post-mortem effort and without the ability to use technology in it's most minimal basic format today, without the ability to take information from data sets instead of notes. While that information is recorded it's not very beneficial and it really only benefits after you select a group of providers and they go through their notes versus if every one had to submit it with their claim you would be able to catch it in real time – not catch but identify. Have any efforts been made with LDH since that last audit to try to add those fields or is that a direction you decided not to pursue? Ms. Stubbs said sometimes because these are the same audits we use the same types of response. LDH was not in support of changing the CMS forms but instead using alternatives ways. Our response has been pretty consistent and I want to point out with the combination of MCO's doing their quality review and LDH Program Integrity doing ours we have seen a marked improvement.

Representative Ivey – that's not very beneficial. He asked how many MCO's do we have? Ms. Stubbs said there are six that do behavioral health and one that operates a very small waiver program. Representative Ivey said if I was a

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provider and I went to log on in each of their systems to submit a claim is it the exact same portal or will I see different forms? Ms. Stubbs said LDH hears complaints from providers about the administrative burden of six different ways of doing anything, six different portals. The CMS forms are consistent. Representative Ivey asked why does LDH not provide the portal where it creates a uniform reporting solution and you have the CMS form elements but you can add or inject whatever elements? We can manage it ourselves the MCO's get their information and we have our information and can better manage the program.

(Video Archive Time 1:21:40)

Mike Waguespack, Legislative Auditor and Diane Allison, Director of Local Government Services presented the extension lists.

Ms. Allison started by advising the committee we have six reports and 191 extension requests. While that may seem like a lot, I compared that with March 2022 when we had 367 extension requests. What we've seen is a 48% decrease in extension requests so that makes us feel good that more of the agencies and auditors and working together get this done. The requests come from 156 different agencies and the story of these particular requests -- 48% of the 191 extensions are due to personnel staffing issues at the agency level. So we are still seeing a lot of turnover of key personnel that cause the delays in the audit. The good news is only 14% is due to declared emergencies -- Hurricanes Laura and Delta and some for Hurricane Ida.

» Non-Emergency Extension Requests – Less than 90 Days. We have 84 requests from 70 different agencies. The vast majority, 53, is due to turnover or lengthy illness at the agency level. Four of these are fiscal years 2021. The vast majority are fiscal year end June 30, 2022. We have reviewed these requests and LLA recommends the committee approve.

Senator Mills asked about the number of charter schools requesting extensions what do they have to produce? Ms. Allison said she did not look at that as a group but she sees it's mostly personnel turnover. Some of them have delays due to the single audit. You have to have that level audit if you have \$50,000 or more in federal funds and there is additional work that needs to be done with that. When there is a small staff that can be a major thing. Larger staff someone else may be able to step in and provide assistance.

Senator Bernard asked when a Village is under financial administration, I thought whoever goes and does that do some get paid or not paid? Mr. Waguespack explained that when a Fiscal Administrator is appointed typically he is paid from the funds, if available, from the municipality. The Village of Powhatan does not have any funds available and the LLA's office is absorbing that cost. Senator Bernard said he's asking about the Village of Clarence. Mr. Waguespack said that particular CPA, Mr. Thomas, has done the work on a volunteer basis. He did not want to see

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the municipality incur the debt. There is a \$450,000 revolving loan fund that the Treasurer can draw down from or a municipality can draw down from to fund that but it puts the burden on the municipality. Senator Bernard asked on the back end is there some way for him to be remunerated for what he's done? Mr. Waguespack responded that he thinks it's quite possible once the agency has cash flow. I think the CPA was doing it because he was close to the community is just a good guy.

Senator Luneau mentioned he agrees with Senator Mills it seems like a lot of charter schools on the extension list. Mr. Waguespack said LLA had a meeting with a firm handling a couple of these audits and there are issues they are trying to work out with the auditees. Vice Chairman Ivey moved to grant the extensions and, with no opposition, the extensions were granted.

» Non-Emergency Extension Requests Greater than 90 days. We have 7 of these requests from 5 agencies and all on this list are due to personnel and staffing issues. We have four from fiscal year end 12/31/21 and the oldest is fiscal year end 9/30/21. We have reviewed these requests and LLA recommends the committee approve.

Senator Bernard asked LLA when the reason is lack of personnel, theoretically, why couldn't the next year they say lack of personnel? How long is that extended before something has to give? Mr. Waguespack responded that we are drilling down on these requests and requiring documentation, correspondence, details and names, etc. Some of the entities, especially those in the accounting world, it is getting harder and harder to find those folks to work in those positions. Senator Mills moved to grant the extensions and, with no opposition, the extensions were granted.

» Emergency Extensions Requests Less than 90 days. We have 10 of these requests and two are due to Hurricane Laura. We have eight that are due to Hurricane Ida in the hardest hit areas of our state. These are all fiscal year end 6/30/22. We have reviewed all of the requests and LLA recommended the committee approve. Vice Chairman Ivey moved to grant the extensions and, with no opposition, the extensions were granted.

» Emergency Extensions Requests Greater than 90 days. These are for declared emergencies and we have 10 of these requests. We have Hurricanes Laura, Delta and Ida and you can see some of the bigger ones are still having to deal with FEMA and GOHSEP questions. All but two are for fiscal year 12/31/21. We have reviewed all of the requests and LLA recommended the committee approve. Senator Bernard moved to grant the extensions and, with no opposition, the extensions were granted.

» Ms. Allison then presents those agencies that had previously requested an extension but LLA has since received the audit report. We have 80 of these. They represent 68 different agencies -- six were emergency requests and 74 were non-emergency requests. Most are fiscal year ending 2022. We have received and

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reviewed these reports. LLA recommended the committee approve. Representative Freiberg moved to grant the extensions and, with no opposition, the extensions are granted.

» Ms. Allison asked to report on LLA's Center for Local Government Excellence (CLGE). We are proud of this program. We held a conference a few weeks ago. 812 people attended. We offered 13.5 continuing education classes for that and we held it in person and live stream. We offered four hours of basic governmental accounting. In October we will offer intermediate governmental accounting. If there are entities you know that need to attend please let us know and we will mark them to get them to attend. Mr. Waguespack explained this has been a two year project and we have really honed in on it. Ms. Allison has put together a great team. We have had lot of turnover with Mayors and Clerks with an election year. It's the ones that never attend that we worry about. It's been working well and a lot of the general fund budget that you give us does fund that program and it's really helping the accountability and transparency and creating a better Louisiana.

» Ms. Allison moved the Non-Emergency Extension Requests – Recommend Denial of Extension Requests Because Do Not Qualify. We have eight on this list and LLA staff recommends we deny the extension requests because they don't meet the criteria. If an extension gets denied, the agency gets placed on the non-compliance list which puts a halt to their state funding and any funds that flow through the state until they send in the audit reports. We have representatives here from six of the eight agencies. Mr. Waguespack explained to the committee that we [LLA] have tried to offer an appeals process by inviting those who were denied to come before LAAC and explain their reasons why they should be approved for an extension.

Senator Mills stated he sees where we granted the Orleans Parish Sheriff an extension because of agency staff shortage. Mr. Waguespack responded that we approved their initial extension until 4/30/23 but it appears they are going to go into 6/30/23. Someone from the Orleans Parish Sheriff's office is here to explain. I think maybe we did a letter with Chairman Luneau to offer them another month; however, as you have probably read in the newspaper, there has been some shake up with personnel and that may be why they are requesting more time. Senator Mills said he's wondering about the consistency. We gave an approval here and then we are requesting denial. Mr. Waguespack explained we put the same information on the chart and every time they ask for another extension we add that to the chart so the committee can see how many times a request is made.

» Cameron Parish Clerk of Court. The agency does not have a representative at the committee meeting.

» City of Winnfield. Steven McKay, CPA on behalf of the City of Winnfield. Senator Luneau advised he wants to be transparent and wants everyone to know that Mr. McKay is his personal CPA. Mr. McKay advised that his office got engaged after the fiscal year end 6/30/19 audit. After the completion of 6/30/19 audit, the

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City had some personnel issues which has been a recurring theme. They have a specialized software which is typically not used in municipalities and the person most knowledgeable in that software passed away. There was a learning curve for the next group and the City Clerk has done a wonderful job but, during that time, we were hit with Hurricanes Laura and Delta which came through and decimated the City's electric distribution system. It caused several millions of dollars in damage which, for the City, is an incredible material figure. In the aftermath of that, the City went through the process of trying to find a third party accounting firm. Eventually they found a CPA that is helping them. With that firm's help we were able to get the information needed and, in the last seven months, we got two audits done fiscal year end 6/30/20 and fiscal year end 6/30/21. We have significantly caught up to the point of working on the fiscal year end 6/30/22 audit, the one we are asking for an extension. We are three months late. The other aspect of this is that the City has obtained some much needed funding in order to rehabilitate their water system. It's upwards of six figures to bring the much needed improvements; however, they are going to run in some problems with not receiving that and receiving a sewer grant pending right now if they are placed on the non-compliance list. Mr. McKay wanted to emphasize the City has made tremendous progress and we believe after tax season we hope to be done with the audit by May 31, 2023 and schedule wise for us we have to be done by June 30. We ask for an extension to either May 31, 2023 or June 30, 2023 and that would be the City to be completely caught up. Senator Luneau said let's get a date would 6/30/23 be the best date? Senator Mills asked as you hear this, Sheriff [Mr. Waguespack], what are your thoughts? Mr. Waguespack said he would recommend the request. Mr. McKay he well explained and well committed. Senator Mills motions to grant the City of Winnfield an extension until 6/30/23 and, with no opposition, the request is granted.

» Dryades Young Men's Christian Association – YMCA [Dryades] to the table. Ms. Erika Mann, Executive Director and Mr. Jonald Walker with Bruno & Tervalon. Mr. Walker said the request for an extension relates to personnel being an issue with both the entity and audit firm. We have been working diligently on the audit. We have engaged a fee accountant to get the documentation together. On the audit itself, we are pretty much close to being finished. We have had some issues that came up in the review process of the financials. I met with the audit manager and he has confirmations going out to get those numbers straight. Senator Luneau asked about the requested extension -- the requested extension was to 3/31/23 I am assuming you want more time? What is the date? Mr. Walker said they are requesting an extension to 5/31/23. Senator Harris motions to grant Dryades an extension to 5/31/23 and, with no opposition, the request is granted.

» Louisiana Leadership Institute [Leadership]. Mr. Sherman Ruth, Executive Director and Richard Brown, CPA. We are here to request an extension. Mr. Ruth states he's two months in on the job. Some of the rationale is that we did have a high turnover in key personnel as well. In reviewing a lot of the documentation, we

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are still recovering from the effects of Covid. That has been very overwhelming. Some of the things we have done to remediate and make sure this does not happen again. We have hired an outside CPA firm to handle a lot of the reporting requirements to make sure we stay in compliance. We have also engaged a third party auditor, as well. We have a Secretary/Treasurer of our Board who is actively engaged to make sure we get our audit reports filed on time. We are asking for an extension until 6/30/23 so that we can get those reports in and I can assure you this will not happen again.

Senator Luneau points out that on the list of Recommend Denial of Extension Requests Because Do Not Qualify – the request is not as it appears on your document. It is actually 6/30/23 on both number 3 and number 4.

Representative Freiberg asked about the request was 2021 when it was due. I'm familiar with the Leadership and you have great people there. Why is this one so overdue? Mr. Ruth responded that he's two months in on the job and his understanding is that it was an overwhelming task and responsibility which is why we engaged an outside CPA to make sure we handle those reports as needed. I used to be the Executive Director of Leadership ten years ago and I understand if you are not on top of those things how it can get behind you. I came in to solve the problem to get Leadership back to where they need to be and in compliance. Representative Freiberg asked so until recently you did not have these experts? Mr. Ruth said well the experience that was required was not there. Before I became the Executive Director the agency engaged an outside CPA as well as an outside auditor to address the deficiencies. We are confident moving forward this will not be an issue again.

Senator Mizell asked Mr. Waguespack's opinion about this request. Mr. Waguespack responded that there has been a whole change in the management of the organization. He looks like a guy who will accomplish the mission. I'm comfortable with his testimony. He has his auditor here so I feel comfortable approving the request. Representative LaFleur motions to grant Louisiana Leadership Institute an extension to 6/30/23 and, with no opposition, the request is granted.

» Housing Authority of Logansport. The agency does not have a representative at the committee meeting.

» Orleans Parish Sheriff's. Ms. Laura Veazy, Assistant Sheriff for External Affairs. OPSO was here in October 2020 asking for a request for fiscal year end 2020 and 2021. You granted that extension and we did complete fiscal year end 2020. We are asking for an extension until April 30, 2023 to complete fiscal year end 2021. We are running behind because of FEMA and staffing issues. Mr. Waguespack asked Ms. Veazy – are you asking for an extension until April or June? Ms. Veazy responded April 30. Mr. Waguespack responded – you are okay for 30 days to get it done? Ms. Veazy – yes. Mr. Waguespack said we granted through April and the last request from the CFO who is no longer with the office, through

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June so in an effort to be careful. Ms. Veazy said we'll take til June. Mr. Waguespack said he'd feel safer going with June. Senator Luneau agreed. We are serious about getting this reporting done and there are dire consequences. Mr. Auditor what do you think about this one? Mr. Waguespack said he is okay with this request. It's a matter of public safety with this one because if they are late they are going to go on the non-compliance list and their state funding will get cut off. Senator Harris motions to grant the Orleans Parish Sheriff's Office an extension to 6/30/23 and, with no opposition, the request is granted.

» St. John the Baptist Parish Clerk of Court. Eliana DeFrancesch, St. John the Baptist Parish Clerk of Court. Senator Luneau states it appears you have requested an extension until June 30, 2023? Ms. DeFrancesch says I would like to keep it a little longer than that. We have completed one of the audits where my auditor that I have at the present time is completing the fiscal year end 2019 and fiscal year end 2020 audit to having the final ready for draft today. Hopefully by the end of this week the report will be finalized and sent to the auditor. Mr. Waguespack said this is a situation where they are way behind. They did complete the fiscal year end 2018 and fiscal year end 2019 I think was submitted maybe two months ago. They are asking for approval for the fiscal year end 2022 but they are working on fiscal year end 2020 and 2021 as we speak. There have been challenges here. There have been disclaimed opinions and qualified opinions with these financials. We have had staff in the field working with their internal accountant to try to see what is going on and we are working through that process. This is an unusual situation for a Clerk of Court. LLA do has some concerns.

Senator Luneau asked Clerk DeFrancesch what is going on? Ms. DeFrancesch responded –the report we got for fiscal year end 2018 was not a good report. We were going through Covid and the company that the auditors that were auditing our office it was through the internet back and forth they had staffing issues they changed auditors that were doing the audit at the time so it was -- they were stating they did not get information from us but one person did but did not relay it to the other person working for the company. At lot of issues. Our audit for fiscal year end 2018 was not a good audit. I've been Clerk since 2000 and we've never had any problems with our audits until that company and that company also went through changes they were bought out by a different company so I went through different management I would say I'm not positively sure. We had Covid, we had Ida. A lot of different things in our way. The old auditors left, I had to get a new auditor. The new auditor was during Covid had staffing issues. They renege and I had to get another auditor. I have the one that is in there now. Senator Luneau – when was that person hired? The one you have now? Ms. DeFrancesch – May. They started and were very thorough so it's taken quite some time to get things straight since our 2018 audit was not the best audit. They went through many, many different requests and they are very thorough so it took longer to do the 2019 one which was done. We had some concerns on that one, too, if I'm not mistaken which is being corrected. The fiscal year end 2019 and fiscal year end

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2020 reports will be done and finished and then we can work on fiscal year end 2021. I was told before the end of this year we will be in compliance with all of our audits.

Senator Luneau responded that this is very disturbing to me to be that far out on these audits especially in an organization like a Clerk of Court that handles lots of people's money. We are in a difficult position here on what we do because there are dire consequences if we deny your request for an extension.

Mr. Waguespack said for full disclosure as you are an attorney you are familiar with the registry funds and amounts due to litigants and stuff held by a clerk of court. One of the findings of the 2019 report is that they can't reconcile about \$476,000 of those funds. We are challenged and I think her challenge and I'll put on record is her internal accountant, CPA, we aren't exactly sure what his credentials are. There lies the challenge. I've spoken to the auditor and he just can't get the records or documentation so you've had a disclaimer of the entire financial statement. They don't even present a general fund because they don't even know for 2018 and for 2019 it's an unqualified opinion because they can't get assurances on beginning balances and unreconciled accounts that are very material in nature. Again, we are trying to help them get to the bottom of it. We are reaching out to the banks and do a detailed accounting of what's going on here.

Senator Mills – when I looked at the list the number of findings you lead the list on the page with 7 findings and being that 2018 and 2019 wasn't Covid that wasn't the period of time I guess, Sheriff, I was looking for your guidance on where we go next because this is bad. Mr. Waguespack it doesn't merit an approval of an extension. They are on the non-compliance list but they don't receive state funding so there's nothing that's going to hurt her office. She generates her own revenues and the parish pays most of her expenses at the courthouse. I'll be honest, we have an investigative group that's in there now trying to dig in and find out what's going on. We've had trouble getting records and it's not so much the Clerk but she's responsible for the individuals in the office, or one in particular, he is not turning over records we think he has in his possession or maybe they aren't available or maybe the work hasn't been done. We do have some concerns and I don't know there is any "fraud" it may just be incompetence in the accounting process but ultimately that responsibility falls on her. We are going to get the answers but they are slowing down the process.

Senator Mills – can you tell us from the audit that's public record what's the most troubling thing you've seen in the 2018 and 2019 report? Mr. Waguespack said they have a listing of litigant cases and balances totaling \$1.3 million but the total resources of cash on hand and investments is only \$835,000 so there is unreconciled \$476,000. So we don't know if he didn't properly record certain investments in CDs or there is money missing or there is a bad updated list of litigants. That's one issue. Of course their response was it was a result of closing out 4 CDS at Capital One Bank and reopening with First American Bank well CDs

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just don't disappear. If they close out they are going into a checking account or they get routed into a new CD. It's a timing issue. We dug our heels in to find answers to that explanation. Clerk DeFrancesch asked to explain. What happened was we closed our 4 CDs at Capital One Bank because they wanted to charge us for any transactions we had with that either asking for statements or whatever. We went with First American Bank because they were not going to charge us for CDs. The problem was they were taken out of Capital One Bank in June if I'm not mistaken and transferred into First American Bank in July so there was a time frame and also the numbers changed when it changed from Capital One the CD number changed but the money is there.

Senator Luneau why can't you provide the documentation? Clerk DeFrancesch said it will be documented on the next report. Senator Luneau - the question is why hasn't it? It's not something that's difficult to produce. Clerk DeFrancesch said I understand and I don't know how to answer that because that would be the gentleman that input the information.

Senator Mills -- I'm not buying this

Senator Luneau that's an employee of yours? Mr. Waguespack said it's a contract employee that goes there 4-5 days a week

Senator Mills said Sheriff [Mr. Waguespack] what do you want us to do? Mr. Waguespack I would recommend denial at this point in time I can't support this effort until we get it straight.

Representative Ivey - In my four years of doing this this is one is odd because it shouldn't be that difficult to rectify the issues. Sometimes things get out of whack but when all they are doing is get the information. Clerk DeFrancesch well they have access to all of my accounts. Representative Ivey - having access to accounts doesn't entail having access to all of the information necessarily. As the Clerk you are the custodian of records so I don't understand how a contract worker can't absolutely, immediately, or be terminated should they not produce tomorrow because you are the custodian of records you are giving them an order and if they don't follow it their contract is terminated. It should be that simple. But again not understanding the dynamics but some feet need to be held to the flame. At the end of the day while state tax dollars may not be involved we have a responsibility to hold all government expenditures accountable. My strong recommendation is to get this taken care of immediately. Phone call today. If you need our assistance we've got legal means to make that happen if for some reason you are giving orders and directions and he's not following. If you are not giving him demands in writing you need to document that yourself and the moment he fails to comply you need to take legal action. You are making things much worse for yourself.

Senator Mills motions to deny extension request and, with no opposition the opposition, the extension request is denied.

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» Senator Luneau – Mr. Waguespack, the two we didn't have anyone show up for is Cameron Parish Clerk of Court and Housing Authority of Logansport, is that correct? Mr. Waguespack – yes, sir. Senator Luneau- I'm looking at these and the previous year findings the Clerk of Court of Cameron Parish has zero findings and the Housing Authority of Logansport had one finding. Can you tell us it looks like they requested extensions at the end of this month? Diane Allison responded that the Cameron Parish Clerk of Court has been impacted by several storms. The fee accountant was just not able to get the work done in time. With regard to the Housing Authority of Logansport, the CPA has been asking them to submit the documentation and they are not providing the documentation.

Senator Luneau said he understands they had lots of problems and storms but it's very disheartening they don't have anyone here to explain what's going on. If we give them two days and they don't produce it they will be in non-compliance.

Senator Bernard motions to grant the Cameron Parish Clerk of Court an extension to 5/31/23 and, with no opposition, the request is granted.

Representative Freiberg motions to grant the Housing Authority of Logansport an extension to 5/31/23 and, with no opposition, the request is granted.

Senator Luneau says these are troubling times for folks complying. I hope they understand we try and you try very hard who aren't in compliance but there comes a time when it's time to pay the piper and for a lot of these folks the time is now. Diane Allison informed that committee that in February LLA changed the definition of "filed two of your last three audit reports on time." It used to be by the statutory due date which is six months after the end of the fiscal year. We extended that to be "or 90 days after with an approved extension" so we even have broadened that because many just need one more month to try to get through this tail end of Covid and all that they are dealing with.

Senator Mills asked that LLA that for those agencies on the most wanted list advise the committee if anyone from that agency attended your seminar. That would be helpful for us to know so when we ask that question they have not attended a seminar for three years that would help us make a decision.

Senator Bernard -- just real quick most people out there without knowing they view agencies in government as heavy-handed they can do it to us because they can. From day one when this Legislative Auditor drove all the way to Powhatan, LA and went in and visited with the officials it told me they were giving everybody every opportunity to do the right thing. I just want to thank Mr. Waguespack. If you get on this list you've done a lot to get there. You've been very accommodating. Mr. Waguespack said he appreciates that. I've got great team members and one of the most important books I read was Art of A Caring Leadership and I think all of them share that trait and they really care about all of these entities no matter how big or small.

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» Senator Luneau let's go over the next small item - budget. Mr. Waguespack says we appreciate the opportunity to present our proposed budget. It seems like it's been a very quick two years -- I think next month will be my two year anniversary. I want to thank you again for giving me this great opportunity to serve you and the State of Louisiana. Mr. Waguespack highlights what LLA does in our different divisions and introduces the Director of each division.

LLA is requesting an increase and I'll go in to the details as to how we arrived at that. Obviously 91% of what we do is our personnel costs. These are challenging times and we need to maintain a level of funding that's going to keep our talent in place. Retention, retention, retention is critical in this business because I can give you a better bang for your buck if folks stay. Many people behind us have been here 20+ years and that's so important especially with the challenges in the CPA world. We are asking this. It's not going to any frills, it's going to personnel. We that said, we are requesting a state general fund allocation of \$13,350,000. Self-generated audit fees are \$16.9 million and then we have Advisory Service billings of \$15,000. We have other self-generated engagement billings of \$1.484 million and our total estimated FEMA billing is \$5.304 million. We self-generate roughly \$23.8 million and the general fund ask is \$13.350 million so total means of financing would be \$37,130,000.

Representative Ivey – first of all I appreciate you and your staff you have done a phenomenal job with selecting your team and letting them run and use their talents and really appreciate the phenomenal work. I may be biased but as I've always stated I believe this is the most important function of government. It's the most important agency we have. I want to remark at how much y'all are responsible for how much you do with relatively how little you are given. \$13.35 million of state general fund dollars but the cost of accountability and transparency it's a rounding error. I believe you wouldn't be coming with these requests unless you felt they are critical. I am happy to support that. We appreciate the commitment to your staff.

Senator Mills – I echo that support. Is your budget anticipating filling the 26 positions? Mr. Waguespack - I don't think we will fill it; however, we use the attrition money for other purposes. I may have to do another market study and adjust base salary especially in the middle level tier because we are losing talent. We are working hard, recruiting hard, going to the school fairs. Senator Mills asked Mr. Waguespack to explain the net decrease of \$216,000 of self-generated revenue? Why the decrease? Mr. Waguespack what it does that decreases the reliance on the general fund so in other words we are bettering our cash flow by that increase in self-generated funds. Senator Mills asked do you get audited? Mr. Waguespack said we get audited once a year by an outside auditor. Senator Mills - and your last audit was clean? Mr. Waguespack. absolutely.

Vice Chairman Ivey motions to approve the Louisiana Legislative Auditor 2023-2024 Budget Request and, with no opposition, the budget is approved.

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Public Comment

No public comment.

Other Business

Adjournment

Representative Ivey offered a motion to adjourn and, with no opposition, the meeting was adjourned at 12:25 p.m.

Minutes Approved: Minutes Approved at the Legislative Audit Advisory Council meeting on July 25, 2023.

The video recording of this meeting is available at:

https://senate.la.gov/s_video/VideoArchivePlayer?v=senate/2023/03/032923LAAC