

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Department of Public Health, Bureau of Healthcare  
Safety and Quality, Division of Health Care Facility  
Licensure and Certification,  
Petitioner**

Docket No. PH-23-0504

v.

**Patrice Lamour, Lamour Community Health Institute, and  
Lamour by Design,  
Respondents**

and

**Department of Public Health, Bureau of Substance  
Addiction Services,  
Petitioner**

v.

**Patrice Lamour and Lamour Clinic,  
Respondents**

**Appearances:**

For Petitioners: Matt A. Murphy, Esq.

For Respondents: Sol Cohen, Esq.

**Administrative Magistrate:**

Judi Goldberg

**SUMMARY OF RECOMMENDED DECISION**

The Department of Public Health issued Notices of Intended Agency Action to Respondents Lamour Community Health Institute, Lamour by Design, and Lamour Clinic based on a pattern of non-compliance with two sets of regulations over several years. Both sets of regulations provide that violating any applicable regulatory provision is, in and of itself, grounds to refuse to renew a license or approval. Petitioners have demonstrated by a preponderance of the evidence that

Respondents repeatedly failed to comply with the regulations that govern clinics and substance use disorder treatment programs.

### **RECOMMENDED DECISION**

Through two of its bureaus, the Department of Public Health (Department) issued licenses and approvals to Respondents Patrice Lamour, Lamour Community Health Institute, Lamour by Design, and Lamour Clinics (collectively Lamour) to operate clinics that provide mental health and substance use disorder treatment. The Department issued notices of its intent to refuse to renew Respondents' licenses and approvals, Lamour requested a hearing, and the Department referred the notices to the Division of Administrative Law Appeals (DALA) for hearing. Magistrate Melinda Troy held and recorded hearings on December 16 and 18, 2024, and January 27, 2025. Seven witnesses testified.<sup>1</sup> Magistrate Troy admitted 132 exhibits (Department 1-30 and Lamour 1-102). The parties submitted closing briefs and shared copies of three hearing transcripts.<sup>2</sup> The record was then closed. Magistrate Troy left DALA before issuing a decision and the appeal was reassigned to me.<sup>3</sup> The parties agreed that a new hearing was not necessary and that I may decide the matter on the existing record.

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<sup>1</sup> Julie Ann Crocker-Wilson, Nicolette Smith, Erica Weil, and Ryan Walker testified on behalf of Petitioners. Chris Davis, Glen Prospere, and Ms. Lamour testified on behalf of Respondents.

<sup>2</sup> References to the transcripts include the volume and page numbers (e.g., Tr. 1 at 42).

<sup>3</sup> See 801 CMR 1.01(11)(e).

**Factual and Regulatory Background**

*The parties and their related entities*

1. The Department is the state agency that is responsible for, among many other things, licensing health care facilities and services. (Stipulation 1; G.L. c. 111.)

2. Petitioner Division of Health Care Facility Licensure and Certification (Healthcare Licensure) sits within the Department and certifies healthcare clinics. See G.L. c. 111, §§ 51-56 and 105 CMR 140.000. (Stipulation 3.)

3. Healthcare Licensure staff conduct licensure surveys to determine whether approximately 4,000 health facilities across Massachusetts are complying with state regulations. The surveyors' practice is to inspect licensed healthcare facilities every two years, as well as in response to complaints or to follow-up on surveys as necessary. (Tr. 1 at 23-24.)

4. Petitioner Bureau of Substance Addiction Services (BSAS) also sits within the Department. BSAS is responsible for the approval of substance use disorder treatment programs. BSAS approval of a substance use disorder treatment program is contingent on the program also having a hospital or clinic license from the Department or the Department of Mental Health. (Stipulation 4; Tr. 2 at 22-23; 105 CMR 164.003.)

5. Respondent Patrice Lamour is the president of Respondent Lamour Community Health Clinic (LCHI) and is the sole owner of Respondent Lamour By Design Inc. (LBD) d/b/a Lamour Clinic. (Tr. 2 at 176, 201-02.)

6. LCHI is a nonprofit company that Ms. Lamour created in 2010. LCHI provides in-home therapeutic services to children and families as well as a career training program and early intervention programs. (Tr. 2 at 196-97, 202-03.)

7. Ms. Lamour is “at the top” of LCHI’s management structure and reports to LCHI’s five-member governance board (of which she is a member). (Tr. 2 at 199-202.)

8. Ms. Lamour first received a clinic license for LCHI in 2011. The Department has renewed the clinic license multiple times. (Tr. 2 at 211-14, 222; Lamour 1, 4, 6, 8, 37, 75.)

9. During the relevant times, LCHI has also had approval from BSAS to provide substance use disorder treatment.<sup>4</sup> (Tr. 1 at 206-10.)

10. In addition to being the president of LCHI, Ms. Lamour is the sole shareholder of LBD, a for-profit corporation that she has operated since 2009. She is also one of LBD’s clinic administrators and is responsible for implementing its policies and procedures. (Tr. 2 at 176-77; Tr. 3 at 26.)

11. LBD provides both in-home and on-site behavioral health and other services to adults and children with a diagnosis of autism. (Tr. 2 at 180-84.)

12. LBD first received a clinic license in June 2009. The Department has renewed that license several times. (Tr. 2 at 209; Lamour 6.)

13. During the relevant times, LBD has also had approval from BSAS to provide substance use disorder treatment. (Tr. 2 at 190-92; Department 2.)

14. In addition to providing behavioral health and substance use disorder treatment, LBD has held a license from the Department of Early Education and Care (EEC) to operate “a large group and school age childcare program.” (Lamour 6; Tr. 2 at 203; Tr. 3 at 127.)

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<sup>4</sup> BSAS staff were unclear about whether LCHI or LBD received the approvals. During the final renewal approval process, BSAS asked Ms. Lamour to only include LBD on the application. (Tr. 1 at 244.)

15. LBD provides administrative support to LCHI through a Medical Records Custody Agreement pursuant to which LBD maintains and manages LCHI's medical records. LBD also provides operational support to LCHI through the provision of administrative and management services. (Addendum to Respondents' September 15, 2023, Request for Adjudicatory Hearing; Lamour 6.)

*The building at 42-48 Diauto Drive*

16. Both LCHI and LBD are in the same building in Randolph, which Ms. Lamour purchased in 2011. It is a rectangular building with three addresses. LCHI and LBD each use a different address; LCHI uses 42 Diauto Drive and LBD uses 44 Diauto Drive. (Tr. 1 at 43; Tr. 2 at 199; Lamour 38.)

17. A floorplan for the building designates certain rooms for use by LCHI and designates other rooms for use by LBD. (Lamour 38 (a copy of the floorplan is attached as an Addendum hereto).)

18. The floorplan also designates two rooms (a large children's room and an office) for use by 48 Diauto Drive, which is the address associated with a childcare license from the Department of Early Education and Care (EEC). (*Id.*; Tr. 3 at 246-50).<sup>5</sup>

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<sup>5</sup> The record reflects confusion about 48 Diauto Drive. Ms. Lamour testified: "We don't use that 48 address. It's never been used. I don't even know about it. It has no relevancy" and that "48 Diauto Drive is just an address[.]" (Tr. 2 at 199; Tr. 3 at 147-48, 247.) Ms. Lamour also testified that the EEC license is for 48 Diauto Drive. (Tr. 3 at 250.) Pursuant to Section 11(5) of Chapter 30A, I take administrative notice that (1) the city of Randolph assessor's database shows that P Lamour Properties, LLC owns 44 Diauto Drive and (2) the Secretary of the Commonwealth's corporate database shows that Patrice Lamour, with an address of 48 Diauto Drive, is the sole manager of P Lamour Properties, LLC. Pursuant to Section 11(5), both parties had the opportunity to object to this administrative notice; neither objected.

19. There are also common areas (a kitchen, janitor closet, and accessible bathroom) that the floorplan does not associate with any of the three addresses. (Lamour 38.)

20. Both 42 and 44 Diauto Drive have doors at the front of the building, but the door at 42 Diauto Drive is kept locked. Visitors to either address must press a buzzer to enter 44 Diauto Drive. (*Id.*; Tr. 1 at 39-40; Tr. 3 at 148-49.)

21. When visitors enter 44 Diauto Drive, they immediately arrive in LBD's reception area and waiting room. LBD's space is to the right and LCHI's space is to the left. (Lamour 38.)

22. There is a wheelchair ramp on the right of the building that the floorplan does not associate with a particular address. When visitors enter the building from the wheelchair ramp, they immediately arrive in a u-shaped hallway that goes past the common areas on the right and the group room for children on the left (48 Diauto Drive). The hallway leads to LCHI-designated areas (42 Diauto Drive), passes LBD-designated areas (44 Diauto Drive), and ends with an office (48 Diauto Drive) and LBD's locked storage room (44 Diauto Drive). (*Id.*)<sup>6</sup>

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<sup>6</sup> In 2022, LCHI purchased a building in Braintree. The Department did not address the Braintree location in its 2023 Notices of Intended Agency Action. Ms. Lamour testified in January 2025 that she intended to add the Braintree site to the Diauto Drive site. (Tr. 3 at 121-25.) In January 2026, Lamour moved to admit into evidence two Certificates of Inspection from June 2025 for the Braintree site. I denied that motion pursuant to 801 CMR 1.01(7)(k). Lamour moved for reconsideration on March 12, 2026, which I hereby deny. *See* 105 CMR 140.132(B)(3) ("In cases of revocation of or refusal to renew a license, the hearing officer shall determine whether the Department has proved by a preponderance of the evidence the licensee is not suitable or responsible and/or the license should be revoked or refused renewal, *based on relevant facts as they existed at or prior to the time the Commissioner initiated the hearing procedure.*" (emphasis added)).

*Disability Accessibility at 42-48 Diauto Drive*

23. The Department’s regulations require that clinics “shall comply with all federal, state and local requirements for accessibility.” 105 CMR 140.209.

24. In September 2018, June 2020, and January 2023, inspectors determined that 42-44 Diauto Drive, the bathroom in the common area, and 42-48 Diauto Drive complied with various accessibility requirements. (Lamour 24, 51, 77.)

25. There was no evidence that 42 Diauto Drive or 44 Diauto Drive independently satisfied state and local requirements for accessibility.

*Overview of Healthcare Licensure Survey Process*

26. Healthcare Licensure conducts inspections – sometimes referred to as surveys – of the various healthcare facilities that it licenses. 105 CMR 140.110.

27. Healthcare Licensure surveys a facility before it issues a license and may make additional inspections “whenever the Commissioner deems it necessary for the enforcement of 105 CMR 140.000.” *Id.* 140.111.

28. Healthcare Licensure has “evolved” since 2016. Before then, the Department did not have a designated unit for healthcare licensure and at times would approve licenses based only on an application without conducting a survey. (Tr. 1 at 26.)

29. Once Healthcare Licensure has issued a license, its staff will conduct a survey approximately every two years to ensure that the licensee continues to comply with the Department’s statutory and regulatory requirements. (Tr. 1 at 24-25.)

30. Different surveyors with different backgrounds or experience may identify different issues at different times. (Tr. 1 at 192-93.)

31. If the surveyors notice violations of Department regulations, they will issue a Statement of Deficiencies (Statement) that lists a regulation and describes how the clinic did not comply with it. Within ten calendar days of receiving the Statement, the clinic must provide a written Plan of Correction (Plan) to Healthcare Licensure that lists corrective actions to address the issues raised in the Statement. Healthcare Licensure then reviews the Plan and either accepts or rejects it. If Healthcare Licensure rejects the Plan, the facility must amend and resubmit the Plan within five calendar days of the date of notice. 105 CMR 140.112-.113.

*Healthcare Licensure Visits to LCHI*

32. Healthcare Licensure licensed LCHI as an ambulatory clinic, which means that “patients can come in and receive their services there[.]” (Tr. 1 at 44.)

33. Between January 2019 and November 2021, Healthcare Licensure conducted six surveys of LCHI. (Stipulation 5.)

34. Healthcare Licensure surveyors identified several of the same deficiencies during more than one survey. One deficiency that Healthcare Licensure consistently noted related to the regulatory provision that “[a] license is valid only for the premises and the specific services authorized by the Department.” 105 CMR 140.122. Surveyors repeatedly found that the space for LCHI and LBD overlapped and they believed that there were other services, such as childcare, occurring on the premises, which would violate the regulation. (Department 1, 4.)

*2019 LCHI Surveys*

35. On January 16, 2019, a Healthcare Licensure surveyor visited LCHI for a licensure renewal survey. (Department 4.)

36. After that visit, Healthcare Licensure issued a Statement that included two deficiencies (failing to report information regarding staff vaccinations and treating the majority of clients in the community). The lack of on-site appointments with clients became a significant issue over the next few years. LCHI would repeatedly assert that it either had no clients or that it only saw clients in the community, which the surveyors found violated the applicable regulation. (*Id.*; 105 CMR 140.560(M) (amended in 2021).)

37. On March 21, 2019, two Healthcare Licensure surveyors visited LCHI to follow up on the January survey. Before the site visit, the surveyors reviewed LCHI's website, which listed at least six services that LCHI provided in addition to the licensed services. (Department 4.)

38. When the surveyors arrived, the door to 42 Diauto Drive was locked. The surveyors had to enter the building through 44 Diauto Drive, which is LBD's address. The receptionist was the only person on site even though Healthcare Licensure regulations require the clinic's administrator or director to be on site. (*Id.*; Tr. 1 at 35, 39-42.)

39. The surveyors were provided information that related not only to LCHI, but also to LBD, an adult day health program, and a childcare program. The surveyors did not understand why they received records for an adult day health program or childcare program because the Department does not license those types of programs. (Department 4; Tr. 1 at 35-37.)

40. When LCHI's administrator arrived, she identified herself as the administrator of LCHI, LBD, and the adult day health program, all of which occurred in the same building. The surveyors noted that 42, 44, and 48 Diauto Drive had overlapping spaces. The surveyors cited LCHI for a deficiency because it failed to "use the premises solely for the mental health and

substance use disorders services authorized by the Department.” Over the next few years, this was a frequently cited deficiency. (Department 4; Lamour 33, 34.)

41. After the March 2019 visit, Healthcare Licensure issued a Statement with 19 deficiencies. The first deficiency was LCHI’s failure to submit an acceptable Plan after the January 2019 survey; the Department rejected the Plan LCHI submitted and LCHI did not submit a revised plan in the required timeframe. Other deficiencies included LCHI’s failure to:

- use the clinic space only for the licensed purpose;
- report personnel vaccination information;
- provide space for reception, waiting area, staff office, and records storage;
- ensure that there was a locked janitor’s closet; and
- maintain current, complete, and accurate administrative records.

LCHI submitted Plans to address the deficiencies on July 1 and July 16, 2019. (Department 4.)

42. On July 29, 2019, four Healthcare Licensure surveyors visited LCHI. After that visit, Healthcare Licensure issued a Statement noting that 18 deficiencies remained from the previous survey and that LCHI had not implemented the corrections listed in their Plans. (*Id.*)

43. From July to December 2019, counsel for LCHI and LBD engaged the Department’s General Counsel in extensive communications regarding the survey process. Lamour’s counsel stated that LCHI’s boards “understand that, as a licensed clinic, LCHI should meet the physical space regulatory requirements, but unlike licensed clinics that actually perform patient services in the physical space, the . . . Boards do not understand the pressing need for the physical space regulatory requirements to be met immediately[.]” Counsel also asserted that the history of LCHI receiving clinic licenses without deficiencies relating to its physical layout meant that “any alleged inconsistencies have at a minimum been implicitly approved.” (Lamour 34.)

44. The Department's General Counsel repeatedly iterated the need for LCHI to comply with the applicable regulations. She informed counsel that LCHI had to comply with the regulatory provision that "the number of outreach clients and visits shall not account for the majority of the clinic's clients and visits."<sup>7</sup> She also informed counsel that "since LCHI possess an active clinic license, staff could start seeing patients at any time. The Department cannot ignore licensure deficiencies by relying upon an assertion that no patient care is provided." (*Id.*)

#### *2020 LCHI Surveys*

45. On January 9, 2020, two Healthcare Licensure surveyors conducted a site visit for LCHI. After that visit, Healthcare Licensure issued a Statement with 34 deficiencies. The Statement noted that LCHI failed to demonstrate that it had implemented corrections from its 2019 Plans. (Department 4; Lamour 42.)

46. On February 14, 2020, counsel for Lamour submitted a Plan in response to the Statement from the January survey. The Department rejected the Plan because the dates to implement the changes fell outside of the required 30 days for correction. (Lamour 44.)

#### *2021 LCHI Surveys*

47. On March 12, 2021, Healthcare Licensure conducted a site visit for LCHI. Healthcare Licensure issued a Statement noting that LCHI had corrected nine deficiencies and failed to correct 25; the surveyors added three deficiencies. The surveyors noted that LCHI had failed to provide documentation of corrections it had made or to implement previous Plans. (Department 4; Lamour 56.)

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<sup>7</sup> 105 CMR 140.560(M). The Department eliminated this requirement in 2021.

48. In July 2021, LCHI completed a Plan to address the deficiencies from the March 2021 survey. (Department 4.)

49. On November 17, 2021, Healthcare Licensure conducted a site visit for LCHI. In its Statement, Healthcare Licensure noted that LCHI had corrected 27 deficiencies; the one remaining deficiency related to accessibility for individuals with disabilities. (*Id.*; Lamour 67.)

*Healthcare Licensure Visit to LBD*

50. On January 31, 2023, Healthcare Licensure surveyors conducted a site visit for LBD. (Department 5.)

51. After that visit, Healthcare Licensure created a Statement that included thirteen deficiencies, including the failure to:

- use the premises only for licensed services;
- report information about staff flu vaccinations;
- provide space for reception, waiting area, staff offices, and records storage;
- identify a utility closet; and
- maintain complete and accurate administrative records.

(*Id.*)

52. In January, February, and March 2023, LBD's counsel exchanged emails with Healthcare Licensure asking for the findings from the survey. Healthcare Licensure responded that the findings were being drafted. (Lamour 86.)

53. Healthcare Licensure did not send the Statement to LBD before issuing the Notice of Intended Agency Action. (Tr. 3 at 125.)

*Requests to Waive Compliance with Regulatory Requirements*

54. Healthcare Licensure allows clinics to submit a written application to waive one or more regulatory requirements if compliance would cause undue hardship to the clinic, the clinic

is in substantial compliance with the spirit of the regulations, and the clinic’s noncompliance does not jeopardize the health or safety of the patients and does not limit the ability to provide care. 105 CMR 140.099.

55. In January 2019, a Healthcare Licensure surveyor emailed Ms. Lamour asking whether she had submitted a waiver for its “outreach program services.” The surveyor wrote that most clinics had a waiver “to let the Department know that the majority of patients are being seen outside of the clinic.” Ms. Lamour explained: “That’s the plan for the services that will be under LCHI. Only LBD has clients currently, but has the same model[.]” The surveyor found this response confusing. Ms. Lamour also asked what she needed to do for the future because that was “the first time anyone have [sic] informed me of this.” (Lamour 22.)

56. At that time, Lamour did not submit a waiver for its outreach program services. However, at a December 12, 2019, meeting with the Department, Lamour submitted waiver requests to share space with LBD, and in particular, for LCHI and LBD to share reception and office space,<sup>8</sup> handwashing and toilet facilities,<sup>9</sup> and a janitor’s closet;<sup>10</sup> there was also a waiver request for LBD to serve more patients outside of the clinic than on-site.<sup>11</sup> Around this time, LCHI and LBD repaired the bathroom in the common area to make it accessible. (Lamour 10, 39.)

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<sup>8</sup> 105 CMR 140.202 (“Each clinic shall provide adequate space and equipment for reception and waiting areas, for administrative and staff offices[.]”).

<sup>9</sup> 105 CMR 140.205(A) (each clinic must provide “conveniently located handwashing and toilet facilities”).

<sup>10</sup> 105 CMR 140.206 (each clinic must have janitor’s closet with a door that locks).

<sup>11</sup> 105 CMR 140.560(M) (number of “outreach clients and visits shall not account for the majority of the clinic’s clients and visit[s]”) (amended 2021).

57. In February 2020, Department staff notified Lamour’s counsel that it was “unable to approve the waivers at this time because of on-going confusion about what programs are happening in which spaces at 42 and 44 Diauto, when those programs are being scheduled, by which doors people will be entering and which rooms they will be going to.” Department staff also noted confusion about which bathroom “Lamour is considering to be handicapped accessible and how the various populations being served are to be kept separated from each other.” (Lamour 41.)

58. In July 2021, LBD submitted a revised waiver request for LCHI and LBD to share space by creating a schedule so that LBD and LCHI clients would be in the building at different times to prevent them from intermingling. Lamour never actually implemented this schedule. (Lamour 58; Tr. 1 at 168-69.)

59. On January 7, 2022, LCHI requested a waiver of the handicapped accessibility requirements. As justification for this request, LCHI wrote that there were minimal patients seen on-site. The Department denied this request because it did not have the authority to waive accessibility requirements under federal law or under the Architectural Access Board regulations. (Lamour 68, 75.)

60. Neither DPH staff nor Ms. Lamour were sure whether the Department approved the waiver request for LCHI and LBD to share office space. (Tr. 1 at 154 (Healthcare Licensure staff testified that she did not recall “what waiver were approved and what waivers were not”; Tr. 3 at 105 (as far as Ms. Lamour knew the Department had not acted on waivers for shared office space).)

61. However, the November 2021 survey stated that LCHI had corrected all previous deficiencies except for the one relating to accessibility. (Department 4.) Based on this fact, I infer that the Department approved the waiver for shared office space.

*Overview of BSAS Survey Process*

62. Clinics that operate a substance use disorder treatment program must comply with regulations that BSAS enforces. 105 CMR 164.000 et seq.

63. BSAS evaluates applicants to operate substance use disorder treatment programs. BSAS may issue an approval (written certification that a provider may operate a substance use disorder treatment program) or a license (written authorization that an applicant is responsible and suitable to operate a substance use disorder treatment program). *Id.* 164.005.

64. In certain circumstances, BSAS might issue a conditional or provisional approval, which is valid for six months. BSAS may approve renewal only once. A conditional approval comes with “specifications need[ed] to continue it.” (Tr. 1 at 237-38; 105 CMR 164.511(D).)

65. After visiting a facility, BSAS prepares a written Deficiency Correction Order (Order) that lists any regulatory or statutory violations. BSAS sends the Order to the provider, who must submit a Plan addressing each deficiency within 14 calendar days and correct each deficiency within 60 calendar days of receiving the Order. 105 CMR 164.516-.517.

*BSAS Visits to LCHI and LBD*

66. During the relevant times, LBD and LCHI had BSAS approvals to conduct outpatient substance use disorder treatment services and drivers’ alcohol education and counseling. (Stipulation 2; Lamour 1, 26.)

67. Between March 2018 and January 2023, BSAS conducted four surveys (three scheduled and one unscheduled) at LCHI and LBD. (Stipulation 6; Department 15; Lamour 18.)

68. BSAS's March 2018 inspection resulted in the following areas of noncompliance:

Admission criteria for the substance use disorder program was not posted in the waiting room. There was not a "denied admissions" log in place for clients who were inappropriate for this program and had to be referred elsewhere. There was not a (Medicated Assisted Treatment) MAT resource list which documented the benefits and risks of each of the MAT options. There was not a specific Release of Information (ROI) form for the client to give his/her consent to contact their emergency contact in the event of an emergency.

(Lamour 18.)

69. After the next inspection in March 2019,<sup>12</sup> BSAS issued an Order listing eight areas of noncompliance, including the failure to document: staff and clients' education and training on relevant federal regulations; staff's annual tuberculosis screenings and annual trainings; and clients' overdose assessments or HIV education. (Department 15.)

70. BSAS conducted the next inspection in February 2020. The surveyor was the same one who conducted the March 2019 inspection. She had developed as a more experienced surveyor since the December survey, which may have accounted for the 12 deficiencies she identified in this survey. The Order that followed noted: the failure to document client orientation, staff supervision, and client HIV risk and other assessments; no signature on the on-site overdose policy; no documentation of staff tuberculosis risk assessment; missing staff background check materials; and incomplete client manual. (Tr. 1 at 218-19; Department 15.)

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<sup>12</sup> Some BSAS Orders do not clearly state the date of the visit. As a result, I used the Orders' "submission date" as the date of the visits.

71. BSAS next issued an Order in May 2020 based on LBD and LCHI's failure to complete clinical supervision forms and to document professional development. (Lamour 45.)

72. In August 2020, BSAS issued a conditional two-year approval for LBD and LCHI to provide outpatient treatment but required that they provide quarterly reports regarding staff training, supervision, and census information. (Department 21; Tr. 2 at 106.)

73. Starting in December 2020, a new state law required BSAS' providers to report their clients' type of insurance to BSAS on a quarterly basis. When LBD and LCHI did not report, or incompletely reported, that data, BSAS issued an Order in December 2021 noting this as a deficiency and directing them to submit a Plan. (Department 15.)

74. Between March 2021 and April 2022, BSAS repeatedly reminded LBD and LCHI about the need to submit the quarterly data sets that the conditional approval required. One of the surveyors noted that BSAS received information for only some of the quarters and "there was a lot of prompting involved." At times, Ms. Lamour, LCHI, and LBD emailed data sets that BSAS may not have received. (Department 22, 23, 24; Lamour 61, 64, 65, 70, 71; Tr. 2 at 34-35.)

75. On May 23, 2022, BSAS's system generated an automatic notification that LBD and LCHI's renewal was upcoming and that their current approval would expire on August 21, 2022. On August 12, 2022, the surveyor emailed Ms. Lamour to remind her that she had not yet started a renewal application and that the approval would expire on August 21, 2022. (Department 16.)

76. LBD and LCHI had at times submitted their renewal application on time and at other times BSAS had granted additional time, which was "grace" that it did not provide for other programs. (Tr. 2 at 42-43.)

77. There were times that Ms. Lamour, LCHI, and LBD had difficulty using BSAS's online application system. (Tr. 2 at 34-35.)

78. BSAS conducted another inspection of LBD in 2022 during which it found: a lack of required information in the patient policy manual; a signed but otherwise blank release form; lack of consistent documentation of overdose prevention, HIV, and tobacco education; and a client record with a diagnosis of an unspecified substance use disorder but no documentation of substance use, history of overdose, or witnessing an overdose. In addition, BSAS noted that LBD and LCHI had failed to apply for renewal at least 60 days before their approval expired. Rather, they had reached out for technical assistance four days before the expiration date; this was the second time that they had submitted a renewal application late. (Tr. 1 at 225-27; Department 15.)

79. In December 2022, the BSAS surveyor expressed concern about LBD and LCHI to her supervisors "because I didn't feel just myself and my eyes were enough." She had only ever elevated her concerns in one or two other situations. (Tr. 1 at 237.)

80. The BSAS surveyor tried to help Lamour comply with its requirements and was available to answer questions or to provide technical assistance. This was "a little bit more" help than she provided to other programs. At a certain point, she felt as though she "was kind of reiterating some of the same things." (Tr. 1 at 232-37.)

81. In February 2023, BSAS conducted an inspection of LCHI and issued an Order noting eleven deficiencies, many of which had appeared in past Orders. (Lamour 5.)

*Allegations and Evidence of Bias*

82. On October 17, 2018, Ms. Lamour's attorney sent a letter to the General Counsel for the Executive Office of Health and Human Services (EOHHS) about the Massachusetts Behavioral Health Partnership and Beacon Health Options, Inc. (collectively MBHP). MBHP was a vendor that managed behavioral healthcare services for MassHealth members. Counsel listed a series of complaints regarding MBHP and asked EOHHS to investigate. (Lamour 1.)

83. A series of emails between Ms. Lamour, her staff, her attorney, and MBHP followed. Ms. Lamour's lawyer sent another letter to EOHHS in December 2018 regarding a billing issue that she had with MBHP, alleging that MBHP was engaging in "questionable behavior." In January 2019, MBHP notified Ms. Lamour that it would be auditing some of its client records. MBHP later told Ms. Lamour that it had found irregularities in her records and referred those concerns to its special investigation unit. (*Id.*)

84. On May 30, 2019, Ms. Lamour's attorney sent a letter to the Office of the Attorney General asking it to investigate MBHP, alleging that MBHP discriminated against it. (*Id.*)

85. On November 12, 2019, Ms. Lamour met with representatives from the Governor's Office and followed up with an email asking for intervention with the Department. (Lamour 35.)

86. On February 14, 2020, Ms. Lamour's attorney sent a letter to the Department's Commissioner alleging that the deficiencies that Healthcare Licensure had identified in 2019 and 2020 were inaccurate and that the Healthcare Licensure surveyors were driving the process "toward a predetermined result [to deny] LCHI the ability to retain its clinic license." The letter

requested a “fair non-biased review and assessment of its compliance with clinic licensure requirements.” (Lamour 4.)

87. In a March 31, 2021, email that followed a meeting between Ms. Lamour and BSAS, a BSAS staff person wrote that it was “[c]lear that Patrice feels they are being discriminated against (racism).” However, he testified that he did not think that Ms. Lamour had ever said that or made any allegations that she or her organization were being targeted due to racial discrimination. (Lamour 95; Tr. 2 at 150.)

88. In May 2023, a member of the LCHI board wrote to the Governor and Lieutenant Governor asking that they compel the Department and EEC renew LCHI’s licenses and help to “deal with clear microaggression and bias[.]” (Lamour 82.)

89. In June 2023, counsel for Lamour wrote to the Department’s Commissioner and expressed his understanding (without citing evidence) that “my client was audited far more than any other similar entity.” He further alleged that one of the Healthcare Licensure surveyors was “targeting their operation and had a desire to prevent them from offering services.” He wrote that the surveyor “has not allowed the renewal to take place and has continued her bias pattern of behavior by contacting . . . EOHHS agencies and other local governmental agencies . . . and questioned their organization[‘s] need for license.” (Letter from Milton L. Kerstein to Commissioner Robert H. Goldstein (June 2, 2023).)

90. One of the staff members who worked for both LCHI and LBD described the Healthcare Licensure surveyors as “not friendly.” Ms. Lamour described the site visits as “very antagonistic”, “hostile”, and “combative” and added that the visits grew less and less friendly as time went on. (Tr. 2 at 70, 262; Tr. 3 at 166.)

91. Ms. Lamour testified that her dealings with BSAS staff were significantly different from those with Healthcare Licensure in that interactions with BSAS staff were less “combative” and had a different tone than those with Healthcare Licensure staff. (Tr. 3 at 95, 166.)

*Notices of the Department’s Intended Agency Action and Request for Adjudication*

92. On August 16, 2023, the Department sent a Notice of Intended Agency Action to Ms. Lamour of its intent to refuse to renew the clinic license for LCHI and LBD. (Department 1.)

93. Also on August 16, 2023, BSAS sent a Notice of Intended Agency Action to Ms. Lamour of its intent to refuse to renew the approval for LCHI and LBD. (Department 2.)

94. LCHI and LBD requested an adjudicatory hearing. The Department initiated this proceeding on October 13, 2023, by forwarding the two Notices of Intended Agency Action and Request for Hearing to DALA.

**Standard of Review**

The Department’s regulations provide that in cases of refusal to renew a license, the Commissioner shall initiate a hearing and “the hearing officer shall determine whether the Department has proved by a preponderance of the evidence the licensee is not suitable or responsible and/or the license should be . . . refused renewal, based on the relevant facts as they existed at or prior to the time the Commissioner initiated the hearing[.]” 105 CMR 140.132(B)(3). If the hearing officer “finds any single ground for . . . refusal to renew a license pursuant to 105 CMR 140.131 the hearing officer shall uphold the decision of the Commissioner[.]” *Id.* 140.133(C). The Commissioner shall review the decision of the hearing officer and the Commissioner’s decision “upon this review shall constitute a final agency decision.” *Id.* 140.134(A).

BSAS's regulations do not contain a similar standard of review. I conclude that DALA will review whether BSAS has demonstrated by a preponderance of the evidence, or that it is more likely than not, that BSAS had grounds to refuse to renew the license under 105 CMR 164.519. *See Craven v. State Ethics Comm'n*, 390 Mass. 191, 200 (1983) ("Proof by a preponderance of the evidence is the standard generally applicable to administrative proceedings."). As with the clinic regulations, the Commissioner "shall review the recommended decision of the hearing officer in any adjudicatory proceeding . . . . The decision of the Commissioner shall constitute a final agency decision[.]" 105 CMR 164.521(A).

### **Analysis**

#### *Healthcare Licensure's Notice of Intended Agency Action*

Healthcare Licensure's Notice of Intended Agency Action stated five reasons for its intended refusal to renew LCHI's and LBD's clinic licenses: (1) lack of responsibility and suitability to operate a clinic; (2) violation of any state statute or regulation pertaining to the operation of the clinic; (3) violation of any applicable provision of 105 CMR 140.000 and failure to remedy a cited violation; (4) willful misrepresentation of information submitted to the Department; and (5) denial of the Department's right to visit and inspect the clinics. As a finding on any single ground for the refusal to renew is sufficient to uphold the Commissioner's decision, the analysis below focuses on two interrelated grounds for the Department's decision, the lack of responsibility and suitability to operate a clinic and the violation of any state regulation pertaining to the operation of the clinic. Based on the result of that analysis, delving into the additional grounds is not necessary.

*The Department's Determination Regarding LCHI's Responsibility and Suitability and its  
Regulatory Violations*

The applicable regulations require the Department to base responsibility and suitability determinations on “all relevant information” including but not limited to “the proposed licensee’s history of prior compliance with Massachusetts state laws and regulations governing health facility operation. Assessment of this factor shall include the ability and willingness of the proposed licensee to take corrective action when notified by the Department of any regulatory violations[.]” *Id.* 140.109(A)(1). The other factors for the responsibility and suitability evaluation (financial capacity, criminal conduct, and licensure in other jurisdictions) do not apply here.

Healthcare Licensure identified numerous regulatory violations by LCHI, many of which remained uncorrected over time. LCHI ultimately corrected all but one, but Department regulations require it to consider “all relevant information” when considering suitability, including a history of regulatory non-compliance.

A straightforward instance of LCHI’s repeated failure to comply with regulatory requirements was its failure to document or report employees’ vaccination status.<sup>13</sup> This appeared as a deficiency in the January, March, and July 2019, January 2020, and January 2023 surveys. This demonstrates a repeated lack of compliance with the regulations and the repeated failure to correct a regulatory violation.

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<sup>13</sup> The Department amended this regulation in 2021 and 2023. The version that was applicable until May 2021 required all clinic staff (people “employed by or affiliated with the clinic”) to receive or decline the influenza vaccination, and the clinic to document proof of vaccination status and report that information to the Department. The next version (May 2021 to September 2023) contained minor edits to the previous version. The current version that took effect in September 2023 made substantive changes that post-date the issues discussed here.

Another lack of compliance with the regulations related to where LCHI saw its clients. Then-applicable clinic regulations required that “[t]he number of outreach clients and visits shall not account for the majority of the clinic’s clients and visits.” 105 CMR 140.560(M) (amended 2021). Healthcare Licensure noted this violation in 2019 and 2020 but LCHI failed to address its noncompliance.<sup>14</sup> Rather, LCHI not only freely admitted that its staff did not see clients at 42 Diauto Drive, which violated the applicable regulation, but also asserted that this fact could explain or excuse its regulatory violations. If there were no clients at the clinic, this argument suggested, there was less of a “pressing need for the physical space regulatory requirements to be met immediately” and “no harm to the community . . . notwithstanding that the physical location may not be in compliance with physical space regulatory requirements.” Trying to excuse one regulatory violation (physical space) by citing another (lack of on-site clients) was not an acceptable attempt at regulatory compliance.

Delving into LCHI’s physical space reveals other instances of ongoing regulatory noncompliance. The regulations require “each clinic” to have certain physical features, such as reception and waiting areas, treatment rooms, utility closets, and a records retention area. Healthcare Licensure staff determined that LCHI and LBD were sharing space in the building and that their arrangement violated the regulations.

For instance, LCHI did not have its own locked janitor’s closet as required by 105 CMR 140.206. This appeared in the March and July 2019 Statements. In January 2020, the surveyors

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<sup>14</sup> When LCHI submitted its Plan with July 2021 implementation dates, the Department had amended the regulation to eliminate this provision.

noted that LCHI had recently submitted a waiver request to share a janitor's closet but also observed an unlocked janitor's closet on the premises that contained numerous hazardous materials. This demonstrated the very danger that the regulation aimed to prevent – vulnerable people and children having access to dangerous substances. Although LCHI had addressed this deficiency by November 2021, it stands as an example of LCHI's failure to comply with the applicable regulations.<sup>15</sup>

LCHI's accessibility is another example of LCHI's failure to comply with the clinic regulations.<sup>16</sup> During its surveys, Healthcare Licensure staff focused on the space assigned to LCHI at 42 Diauto Drive, the address of the licensed space. Healthcare Licensure staff noted that the wheelchair ramp did not enter directly into LCHI's space. Without a waiver in place allowing LCHI to use this ramp, Healthcare Licensure staff assessed this as a deficiency. Similarly, Healthcare Licensure staff noted the accessible bathrooms in the common area and in LBD's space but not in LCHI's designated area. Healthcare Licensure staff also assigned this as a deficiency.

To address these deficiencies, LCHI's designated space at 42 Diauto Drive had to comply with accessibility requirements. In an attempt to cure this deficiency, LCHI provided the results of several inspections to Healthcare Quality. However, each of those inspections certified either that part of the building (42-44 Diauto Drive) or areas not designated as LCHI's space (the

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<sup>15</sup> A similar analysis applies to the lack of a dedicated LCHI reception area and administrative offices.

<sup>16</sup> Healthcare Licensure listed nine accessibility issues in the January 2021 Statement.

bathroom in the common area near the kitchen) as compliant. These did not address LCHI's non-compliant space.<sup>17</sup>

These are just some examples of LCHI failing to comply with its regulatory obligations; there are many others. The Department's decision whether to renew a clinic license includes evaluation of the licensee's suitability and responsibility, which includes all "relevant evidence" including but not limited to the licensee's history of prior compliance with the clinic regulations. LCHI failed to comply with several clinic regulations on numerous occasions; each failure to comply constitutes sufficient grounds for the Department to refuse to renew LCHI's license. Accordingly, pursuant to 105 CMR 140.131 and 105 CMR 140.132(B)(3), the Department has demonstrated by a preponderance of the evidence that LCHI lacked responsibility and suitability to operate a clinic.

*Healthcare Licensure's Notice of Intended Agency Action Against LBD*

The Department's Notice of Intended Agency Action also included LBD, citing the same five grounds for its intended action.<sup>18</sup> The evidence of regulatory violations against LBD is less robust than that for LCHI. In January 2023, Healthcare Licensure conducted one survey of LBD. And although Healthcare Licensure drafted a Statement, it did not send the Statement to LBD.

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<sup>17</sup> In another effort to comply with accessibility requirements, LCHI asked the Department to waive the accessibility standards; the Department declined to do so because it does not have the authority to waive compliance with federal regulations or regulations promulgated by a different state agency.

<sup>18</sup> (1) Lack of responsibility and suitability to operate a clinic; (2) violation of any state statute or regulation pertaining to the operation of the clinic; (3) violation of any applicable provision of 105 CMR 140.000 and failure to remedy a cited violation; (4) willful misrepresentation of information submitted to the Department; and (5) denial of the Department's right to visit and inspect the clinics.

This violated the applicable regulation that requires the Department to “prepare a deficiency statement citing every violation observed, a copy of which shall be sent to the clinic.” 105 CMR 140.112. The purpose of sending the Statement is to allow the clinic to prepare a Plan and correct the regulatory deficiencies. *Id.* 140.113. As a result of Healthcare Licensure’s failure to send the Statement to LBD, LBD did not have the opportunity to remedy its deficiencies. LBD argues that the Department’s Notice of Intended Agency Action is therefore invalid.

However, as discussed above, Department regulations provide that each of several grounds “in and of itself, shall constitute full and adequate grounds on which to . . . refuse to renew a license.” *Id.* 140.131 (grounds for non-renewal include lack of responsibility and suitability to operate clinic and violation of any state regulation pertaining to clinic’s operation). And in considering a provider’s responsibility and suitability, the Department “shall consider all relevant information[.]” The applicable regulations do not, however, require the Department to conduct a survey before making its determination. *Id.* Thus, the Department’s failure to share the Statement is not fatal to its Notice of Intended Agency Action.<sup>19</sup>

To assess responsibility and suitability, the Department’s consideration of all relevant information includes the proposed licensee’s history of compliance with Massachusetts regulations governing health facility operations. *Id.* 140.109(A)(1). The Department’s assessment

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<sup>19</sup> Section 11(1) of Chapter 30A of the Massachusetts General Laws requires that parties have “sufficient notice of the issues involved to afford them reasonable opportunity to prepare and present evidence and argument.” Here, the Department’s Notice of Intended Agency Action included a detailed description of its reasons for refusing to renew both LCHI and LBD’s clinic licenses, which provided sufficient notice of the issues involved.

of this factor “shall include the ability and willingness of the proposed licensee to take corrective action when notified by [Department] of any regulatory violations.” *Id.*

Here, the Department did not notify LBD of any regulatory violations. As a result, there is no evidence relating to LBD’s ability or willingness to take corrective action. There is, nonetheless, evidence that the deficiencies Healthcare Licensure noted after visiting LBD were consistent with those it noted for LCHI, including issues relating to the physical space, use of the premises only for licensed services, lack of vaccination and other employee records, and the content and storage of client records. These regulatory violations are enough, in and of themselves, to justify the issuance of the Notice of Intended Agency Action. *Id.* 140.131.

In addition to the failure to comply with the applicable regulations, the Department “shall consider all relevant information” in its assessment of responsibility and suitability.<sup>20</sup> The relevant information in this case includes the inescapable fact that Ms. Lamour is inextricably intertwined with the operation of both LBD and LCHI. Her role as the person in charge of both entities is relevant to the responsibility and suitability of LBD as a licensee in the circumstances presented here. She owns LBD, is one of its administrators, and is responsible for implementing its policies and procedures. And as the person “at the top” of LCHI’s management structure, she repeatedly failed to lead the clinic to comply with the regulations and to promptly and thoroughly address deficiencies that Healthcare Licensure identified. In this case, it is relevant for the

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<sup>20</sup> As LBD’s sole shareholder, Ms. Lamour is a licensee. *See* 105 CMR 140.020.

Department to consider LCHI's regulatory deficiencies as it assesses her responsibility and suitability to operate LBD – a second clinic, offering similar services, in the same location.<sup>21</sup>

I find that the relevant information provided sufficient grounds to issue the Notice of Intended Agency Action against LBD. Accordingly, pursuant to 105 CMR 140.131 and 105 CMR 140.132(B)(3), the Department has demonstrated by a preponderance of the evidence that LCHI lacked responsibility and suitability to operate a clinic.

*BSAS's Notice of Intended Agency Action Against LBD<sup>22</sup>*

The Commissioner also issued a Notice of Intended Agency Action (Notice) to Ms. Lamour and LBD that set out nine deficiencies underlying BSAS's intention to refuse to renew LBD's approval. The Notice indicated that LBD failed to: (1) comply with annual training requirements; (2) provide and document consistent staff supervision; (3) have specific driver alcohol education program orientation and maintain required information in client manual; (4) document HIV and tuberculosis risk assessments for staff and clients; (5) document overdose, tobacco, HIV education; (6) retain discharge summaries; (7) document client services accurately and consistently; (8) provide quarterly reports, required data, and personnel contact information; and (9) submit a timely and complete renewal application.

BSAS regulations set out eight grounds that allow it to act against a licensee or applicant, each of which "separately, shall constitute full and adequate grounds to deny, revoke, limit, restrict, or refuse renewal of a License or Approval[.]" 105 CMR 164.519. These grounds include

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<sup>21</sup> In light of LCHI's regulatory violations described above, the relevant information also includes the fact that LBD provided administrative and management services to LCHI.

<sup>22</sup> At some point, LBD d/b/a Lamour Clinic became the sole entity with a BSAS approval.

the failure to comply with any state or federal law or regulation, violation of any BSAS regulatory requirement, and failure to correct a cited violation. *Id.*

Here, BSAS issued a conditional two-year approval for LBD and LCHI to provide outpatient services in August 2020 but required that they provide quarterly reports regarding staff training, supervision, and census information. These were areas that BSAS had noted as deficiencies in past surveys. Rather than complying fully and promptly, the quarterly reports were at times late and sometimes only provided some of the required information. There is credible evidence to support Ms. Lamour's assertion that there were instances when she or her staff sent information to BSAS but BSAS did not receive it or misplaced it. But there is also credible evidence that she submitted reports late and only provided some of the required information, which violated the terms of the conditional approval.

BSAS also identified deficiencies relating to regulations governing the provision of client services. For instance, BSAS found a lack of consistent documentation relating to overdose and HIV risk assessments, as well as a lack of consistent documentation relating to overdose prevention education and HIV education and counseling. BSAS regulations specifically require that clients coming in for substance use disorder treatment receive these services.<sup>23</sup> Based on these and other similar regulatory requirements, I infer that substance use disorder places these clients at risk of overdosing or contracting communicable diseases. The lack of documentation

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<sup>23</sup> 105 CMR 164.572(A) (requiring an assessment for each client that documents history of overdose, including witnessing an overdose, as well as HIV risk status); *id.* 164.574(B), (E) (requiring overdose prevention education and HIV education and counseling).

regarding issues central to the client population in and of itself is a sufficient ground for BSAS to refuse to renew LBD's approval.

In addition to failing to comply with regulations relating to client services, LBD also failed to comply with the requirement to apply for renewal of the BSAS approval at least 60 calendar days before expiration of the current approval.<sup>24</sup> On two occasions, LBD submitted its renewal application late.

There is other evidence of noncompliance with the BSAS regulations, but each ground itself constitutes an adequate basis to refuse renewal of the approval. Based on the evidence cited above, the Department has demonstrated that it had sufficient grounds to issue the Notice of Intended Agency Action against LBD relating to its BSAS approval. Accordingly, pursuant to 105 CMR 164.509 and 105 CMR 164.519, the Department has demonstrated by a preponderance of the evidence that LBD lacked responsibility and suitability to operate a clinic.

*Ms. Lamour's Allegations of Bias Against the Department*

Ms. Lamour argues that the Department's surveys were biased.<sup>25</sup> As support for this assertion, Ms. Lamour notes that before 2019, the Department did not cite her businesses for any deficiencies and approved their licenses with no issues. Ms. Lamour's logic appears to be that

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<sup>24</sup> 105 CMR 164.508(C).

<sup>25</sup> Ms. Lamour also presented evidence about how the vendors that manage(d) MassHealth's behavioral health contracts allegedly mistreated her businesses starting around 2012. Based on her testimony that the Department conducted surveys after she submitted complaints about the vendors to EOHHS in 2018 and the Office of the Attorney General in 2019, I infer that she included this information as evidence of bias relating to those vendors and EOHHS. However, there was no evidence linking the vendors to the Department's actions described herein. And although the Department is one of EOHHS' agencies, there is likewise no evidence linking EOHHS to the Department's actions here.

because the Department did not find deficiencies before 2019, the number of surveys that Healthcare Licensure conducted and the number of deficiencies it identified starting in 2019 resulted from bias. Ms. Lamour also testified that the Healthcare Licensure surveyors were not “friendly,” became less so over time, and at times were hostile and antagonistic.

Bias is not the only possible explanation for changes in a clinic’s survey results. The Department presented credible evidence that it was developing its licensure program over time and improved how it conducted surveys. Indeed, Healthcare Licensure did not even conduct many surveys before 2019.<sup>26</sup> And as its program evolved, Healthcare Licensure’s surveyors were developing their expertise. One surveyor noted that her surveys became more detailed as her skills grew and that different surveyors notice different deficiencies at different times. With regard to the interactions of the surveyors with Ms. Lamour and her staff, it is possible to infer that the Healthcare Licensure staff grew frustrated with the need for frequent surveys and the repetitive nature of the deficiencies. The ultimate question is whether LCHI and LBD consistently complied with their regulatory obligations. As set forth above, they did not.

### **Conclusion and Recommendation**

For the reasons set forth above, I find that the Department has proved by a preponderance of the evidence that LCHI and LBD are not suitable or responsible to operate a clinic. I therefore recommend that the Commissioner refuse to renew LCHI’s and LBD’s clinic license.

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<sup>26</sup> Ms. Lamour testified that Healthcare Licensure conducted at least two site visits before 2019.

Similarly, for the reasons set forth above, I find that the Department has proved by a preponderance of the evidence that LBD has failed to meet the regulatory requirements for an approval to provide substance use disorder treatment services. I therefore recommend that the Commissioner refuse to renew LBD's approval.

Dated: March 17, 2026

/s/ Judi Goldberg  
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Addendum

