

# DECLARATION OF EMERGENCY

## Department of Health and Hospitals Board of Examiners for Licensed Professional Counselors

### Criminal History Records (LAC 46:LX.Chapter 4)

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners (LPCBE) has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, specifically Chapter 4 of Board Rules. The LPCBE finds an imminent danger to the public's health, safety, and welfare if applications cannot be processed due to the closure of the Louisiana State Police office to the general public; thereby, requiring the immediate adoption of this rule to respond to the state's Covid-19 health emergency. The following Emergency Rule, effective March 23, 2020, shall remain in effect for a maximum of 120 days.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

#### Part LX. Licensed Professional Counselors Board of Examiners

##### Subpart 1. Licensed Professional Counselors

#### Chapter 4. Criminal History Records

##### §401. Scope of Chapter

A. This Chapter governs the submission, retention, and use of criminal history records information in connection with applications for the initial license, renewal, or reinstatement of a license of PLPCs and LPCs license in conformity with R.S. 37:2372.1 and R.S. 37:1101-1123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

##### §403. Criminal History Record Information

A. The submission and use of criminal history records information with applications for an initial and reinstatement of licensee shall begin January 1, 2019 and renewals shall begin January 1, 2020. In the renewal of licensure, a random sample of licensees shall be required to submit a criminal history record information with fingerprints.

B. The board shall utilize criminal history record information to determine an applicant's suitability and eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an application for violation of any of these causes specified by R.S. 37:2359 or 37:2360, and the board's rules.

1. All applicants must submit a full set of fingerprints, and criminal history record information to the Board from the Louisiana State Police Bureau of criminal identification and information.

2. Fingerprints, and criminal history record information shall be submitted with application on board approved forms.

3. Criminal history record information shall require all applicants to report whether he or she has been convicted of sex crimes and is registered with any state sex offender and

child predator registry as required by Louisiana State Statute.

4. Any applicant that does not include the applicant's fingerprints, and criminal history record information, and disclosure/ registry of conviction of sex crime shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

C. The submission of an application for licensure to the board shall constitute acknowledgment and consent by the applicant to:

1. any state or federal agency, including, but not limited to, the bureau and the FBI, to disclose and release to the board any and all state, national, or foreign criminal history record information and sex crime conviction and registry;

2. disclosure and release of such information to the board constitutes a waiver by the applicant of any privilege or right of confidentiality;

3. allow the board to utilize criminal history record information to determine the applicant's suitability and eligibility for licensure to include but not limited to:

i. refuse to issue;

ii. suspend;

iii. revoke;

iv. impose probationary;

v. or other terms, conditions, or restrictions on any license held or applied for by an applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

##### §405. Confidentiality of Criminal History Record Information

A. Criminal history record information obtained by the board which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating applicant's eligibility or disqualification for licensure.

B. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court, be released or otherwise disclosed by the board. However, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

##### §407. Exceptions to Criminal History Information Requirement

A. The criminal history information requirements prescribed by the board shall not be applicable to licensed professional counselor or licensed marriage family therapist applicants seeking a temporary registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

**§409. Falsification of Criminal Record Information**

A. An applicant who denies the existence or extent of criminal history record information on an application shall be deemed to have provided false, misleading, and/or deceptive information on an application for licensure, and to have engaged in unprofessional conduct, providing cause for the board to disqualify, suspend or revoke licensure.

B. Falsification of criminal record information may result in a formal hearing before the board in accordance with Chapter 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

Jamie S. Doming  
Executive Director

2004#018