

SENATE BILL NO. 19

BY SENATOR BOUDREAUX

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 44:4.1(B)(23) and to enact R.S. 37:1338.1, 1360.53.1, 1360.104.1, and 2863.1, relative to the authority of the Louisiana State Board of Medical Examiners to request and obtain state and national criminal history record information from certain state and federal agencies on any person applying for a license, registration, certificate, or permit to practice as a perfusionist, medical psychologist, genetic counselor, or polysomnographic health professional in this state; to provide for authority to collect fees and costs from an applicant for requesting and obtaining any criminal history record information; to provide for definitions; to provide for confidentiality of information; to provide for the release of such information upon written consent of the applicant or by court order; to provide for rulemaking authority; to provide for an exception to the Public Records Law; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1338.1, 1360.53.1, 1360.104.1, and 2863.1 are hereby enacted to read as follows:

§1338.1. Authorization to obtain criminal history record information

A. As used in this Section, the following terms shall have the following meaning:

(1) "Applicant" means an individual who has made application to the board for the issuance or reinstatement of any license, registration, certificate, permit, or any other designation considered necessary to practice as a perfusionist in this state that the board is authorized by law to issue.

(2) "Bureau" means the Louisiana Bureau of Criminal Identification and

1 Information of the office of state police within the Department of Public Safety
2 and Corrections.

3 (3) "Criminal history record information" means information collected
4 by state and federal criminal justice agencies on individuals consisting of
5 identifiable descriptions and notations of arrests, detentions, or any formal
6 criminal charges, and any disposition arising therefrom, including sentencing,
7 criminal correctional supervision, and release, but does not include intelligence
8 for investigatory purposes, nor does it include any identification information
9 which does not indicate involvement of the individual in the criminal justice
10 system.

11 (4) "FBI" means the Federal Bureau of Investigation of the United States
12 Department of Justice.

13 (5) "Licensure" means the granting of any license, permit, certification,
14 or registration that the board is authorized to issue pursuant to this Part.

15 B. In addition to any other requirements established by regulation, the
16 board shall require an applicant, as a condition of licensure:

17 (1) To submit a full set of fingerprints, in a form and manner prescribed
18 by the board.

19 (2) To permit the board to request and obtain state and national criminal
20 history record information on the applicant.

21 (3) To pay, in addition to all other applicable fees and costs, such amount
22 as may be incurred by the board in requesting and obtaining state and national
23 criminal history record information on the applicant.

24 C. In accordance with the provisions and procedures prescribed by this
25 Section, the board shall request and obtain state and national criminal history
26 record information from the bureau and the FBI relative to any applicant for
27 licensure whose fingerprints the board has obtained pursuant to this Section for
28 the purpose of determining the applicant's suitability and eligibility for
29 licensure.

30 D. Upon request by the board and upon the board's submission of an

1 applicant's fingerprints and such other identifying information as may be
 2 required, the bureau shall conduct a search of its criminal history record
 3 information and make a simultaneous request of the FBI relative to the
 4 applicant and report the results of its search to the board within sixty days from
 5 receipt of any such request. The bureau may charge the board a processing fee
 6 for conducting and reporting on any such search.

7 E. Any and all state or national criminal history record information
 8 obtained by the board from the bureau or FBI which is not already a matter of
 9 public record shall be considered nonpublic and confidential information
 10 restricted to the exclusive use of the board, its members, officers, investigators,
 11 agents, and attorneys for the purpose of evaluating the applicant's eligibility or
 12 disqualification for licensure. No such information or records related thereto
 13 shall, except with the written consent of the applicant or by order of a court of
 14 competent jurisdiction, be released or otherwise disclosed by the board to any
 15 other person or agency.

16 * * *

17 §1360.53.1. Authorization to obtain criminal history record information

18 A. As used in this Section, the following terms shall have the following
 19 meaning:

20 (1) "Applicant" means an individual who has made application to the
 21 board for the issuance or reinstatement of any license, registration, certificate,
 22 permit, or any other designation considered necessary to practice as a medical
 23 psychologist in this state that the board is authorized by law to issue.

24 (2) "Bureau" means the Louisiana Bureau of Criminal Identification and
 25 Information of the office of state police within the Department of Public Safety
 26 and Corrections.

27 (3) "Criminal history record information" means information collected
 28 by state and federal criminal justice agencies on individuals consisting of
 29 identifiable descriptions and notations of arrests, detentions, or any formal
 30 criminal charges, and any disposition arising therefrom, including sentencing,

1 criminal correctional supervision, and release, but does not include intelligence
2 for investigatory purposes, nor does it include any identification information
3 which does not indicate involvement of the individual in the criminal justice
4 system.

5 (4) "FBI" means the Federal Bureau of Investigation of the United States
6 Department of Justice.

7 (5) "Licensure" means the granting of any license, permit, certification,
8 or registration that the board is authorized to issue pursuant to this Part.

9 B. In addition to any other requirements established by regulation, the
10 board shall require an applicant, as a condition of licensure:

11 (1) To submit a full set of fingerprints, in a form and manner prescribed
12 by the board.

13 (2) To permit the board to request and obtain state and national criminal
14 history record information on the applicant.

15 (3) To pay, in addition to all other applicable fees and costs, such amount
16 as may be incurred by the board in requesting and obtaining state and national
17 criminal history record information on the applicant.

18 C. In accordance with the provisions and procedures prescribed by this
19 Section, the board shall request and obtain state and national criminal history
20 record information from the bureau and the FBI relative to any applicant for
21 licensure whose fingerprints the board has obtained pursuant to this Section for
22 the purpose of determining the applicant's suitability and eligibility for
23 licensure.

24 D. Upon request by the board and upon the board's submission of an
25 applicant's fingerprints and such other identifying information as may be
26 required, the bureau shall conduct a search of its criminal history record
27 information and make a simultaneous request of the FBI relative to the
28 applicant and report the results of its search to the board within sixty days from
29 receipt of any such request. The bureau may charge the board a processing fee
30 for conducting and reporting on any such search.

1 **(5) "Licensure" means the granting of any license, permit, certification,**
2 **or registration that the board is authorized to issue pursuant to this Part.**

3 **B. In addition to any other requirements established by regulation, the**
4 **board shall require an applicant, as a condition of licensure:**

5 **(1) To submit a full set of fingerprints, in a form and manner prescribed**
6 **by the board.**

7 **(2) To permit the board to request and obtain state and national criminal**
8 **history record information on the applicant.**

9 **(3) To pay, in addition to all other applicable fees and costs, such amount**
10 **as may be incurred by the board in requesting and obtaining state and national**
11 **criminal history record information on the applicant.**

12 **C. In accordance with the provisions and procedures prescribed by this**
13 **Section, the board shall request and obtain state and national criminal history**
14 **record information from the bureau and the FBI relative to any applicant for**
15 **licensure whose fingerprints the board has obtained pursuant to this Section for**
16 **the purpose of determining the applicant's suitability and eligibility for**
17 **licensure.**

18 **D. Upon request by the board and upon the board's submission of an**
19 **applicant's fingerprints and such other identifying information as may be**
20 **required, the bureau shall conduct a search of its criminal history record**
21 **information and make a simultaneous request of the FBI relative to the**
22 **applicant and report the results of its search to the board within sixty days from**
23 **receipt of any such request. The bureau may charge the board a processing fee**
24 **for conducting and reporting on any such search.**

25 **E. Any and all state or national criminal history record information**
26 **obtained by the board from the bureau or FBI which is not already a matter of**
27 **public record shall be considered nonpublic and confidential information**
28 **restricted to the exclusive use of the board, its members, officers, investigators,**
29 **agents, and attorneys for the purpose of evaluating the applicant's eligibility or**
30 **disqualification for licensure. No such information or records related thereto**

1 shall, except with the written consent of the applicant or by order of a court of
2 competent jurisdiction, be released or otherwise disclosed by the board to any
3 other person or agency.

4 * * *

5 **§2863.1. Authorization to obtain criminal history record information**

6 **A. As used in this Section, the following terms shall have the following**
7 **meaning:**

8 **(1) "Applicant" means an individual who has made application to the**
9 **board for the issuance or reinstatement of any license, registration, certificate,**
10 **permit, or any other designation considered necessary to engage in the practice**
11 **of polysomnography in this state that the board is authorized by law to issue.**

12 **(2) "Bureau" means the Louisiana Bureau of Criminal Identification and**
13 **Information of the office of state police within the Department of Public Safety**
14 **and Corrections.**

15 **(3) "Criminal history record information" means information collected**
16 **by state and federal criminal justice agencies on individuals consisting of**
17 **identifiable descriptions and notations of arrests, detentions, or any formal**
18 **criminal charges, and any disposition arising therefrom, including sentencing,**
19 **criminal correctional supervision, and release, but does not include intelligence**
20 **for investigatory purposes, nor does it include any identification information**
21 **which does not indicate involvement of the individual in the criminal justice**
22 **system.**

23 **(4) "FBI" means the Federal Bureau of Investigation of the United States**
24 **Department of Justice.**

25 **(5) "Licensure" means the granting of any license, permit, certification,**
26 **or registration that the board is authorized to issue pursuant to this Chapter.**

27 **B. In addition to any other requirements established by regulation, the**
28 **board shall require an applicant, as a condition of licensure:**

29 **(1) To submit a full set of fingerprints, in a form and manner prescribed**
30 **by the board.**

1 (2) To permit the board to request and obtain state and national criminal
 2 history record information on the applicant.

3 (3) To pay, in addition to all other applicable fees and costs, such amount
 4 as may be incurred by the board in requesting and obtaining state and national
 5 criminal history record information on the applicant.

6 C. In accordance with the provisions and procedures prescribed by this
 7 Section, the board shall request and obtain state and national criminal history
 8 record information from the bureau and the FBI relative to any applicant for
 9 licensure whose fingerprints the board has obtained pursuant to this Section for
 10 the purpose of determining the applicant's suitability and eligibility for
 11 licensure.

12 D. Upon request by the board and upon the board's submission of an
 13 applicant's fingerprints and such other identifying information as may be
 14 required, the bureau shall conduct a search of its criminal history record
 15 information and make a simultaneous request of the FBI relative to the
 16 applicant and report the results of its search to the board within sixty days from
 17 receipt of any such request. The bureau may charge the board a processing fee
 18 for conducting and reporting on any such search.

19 E. Any and all state or national criminal history record information
 20 obtained by the board from the bureau or FBI which is not already a matter of
 21 public record shall be considered nonpublic and confidential information
 22 restricted to the exclusive use of the board, its members, officers, investigators,
 23 agents, and attorneys for the purpose of evaluating the applicant's eligibility or
 24 disqualification for licensure. No such information or records related thereto
 25 shall, except with the written consent of the applicant or by order of a court of
 26 competent jurisdiction, be released or otherwise disclosed by the board to any
 27 other person or agency.

28 Section 2. R.S. 44:4.1(B)(23) is hereby amended and reenacted to read as follows:

29 §4.1. Exceptions

30 * * *

1 B. The legislature further recognizes that there exist exceptions, exemptions,
 2 and limitations to the laws pertaining to public records throughout the revised
 3 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
 4 limitations are hereby continued in effect by incorporation into this Chapter by
 5 citation:

* * *

7 (23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,
 8 1123(E), 1277, 1278, 1285, 1326, **1338.1, 1360.53.1, 1360.104.1**, 1518, 1745.15,
 9 1747, 1806, 2156.1, 2406, 2505.1, **2863.1**, 3481, 3507.1

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PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____