

2019 Regular Session

SENATE BILL NO. 19

BY SENATOR BOUDREAUX

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

HEALTH DEPARTMENT. Provides relative to criminal history record information obtained by the Louisiana State Board of Medical Examiners. (8/1/19)

AN ACT

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

5           **(2) "Bureau" means the Louisiana Bureau of Criminal Identification and**  
6           **Information of the office of state police within the Department of Public Safety**  
7           **and Corrections.**

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

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

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

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

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

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

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

29           **C. In accordance with the provisions and procedures prescribed by this**

1        Section, the board shall request and obtain state and national criminal history  
2        record information from the bureau and the FBI relative to any applicant for  
3        licensure whose fingerprints the board has obtained pursuant to this Section for  
4        the purpose of determining the applicant's suitability and eligibility for  
5        licensure.

6                D. Upon request by the board and upon the board's submission of an  
7        applicant's fingerprints and such other identifying information as may be  
8        required, the bureau shall conduct a search of its criminal history record  
9        information relative to the applicant and report the results of its search to the  
10       board within sixty days from receipt of any such request. The bureau may  
11       charge the board a processing fee for conducting and reporting on any such  
12       search.

13               E. If the criminal history record information reported by the bureau to  
14       the board does not provide grounds for disqualification of the applicant for  
15       licensure under the applicable law administered by the board, the board shall  
16       have the authority to forward the applicant's fingerprints and such other  
17       identifying information as may be required to the FBI with a request for a  
18       search of national criminal history record information relative to the applicant.

19               F. 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 deemed nonpublic and confidential information restricted  
22       to the exclusive use of the board, its members, officers, investigators, agents,  
23       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                                \*       \*       \*

29        §1360.53.1. Authorization to obtain criminal history record information

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

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

7           (2) "Bureau" means the Louisiana Bureau of Criminal Identification and  
8 Information of the office of state police within the Department of Public Safety  
9 and Corrections.

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

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

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

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

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

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

28          (3) To pay, in addition to all other applicable fees and costs, such amount  
29 as may be incurred by the board in requesting and obtaining state and national

1 criminal history record information on the applicant.

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

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

15 E. If the criminal history record information reported by the bureau to  
16 the board does not provide grounds for disqualification of the applicant for  
17 licensure under the applicable law administered by the board, the board shall  
18 have the authority to forward the applicant's fingerprints and such other  
19 identifying information as may be required to the FBI with a request for a  
20 search of national criminal history record information relative to the applicant.

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

1 \* \* \*

2 **§1360.104.1. Authorization to obtain criminal history record information**

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

5 **(1) "Applicant" means an individual who has made application to the**  
6 **board for the issuance or reinstatement of any license, registration, certificate,**  
7 **permit, or any other designation deemed necessary to engage in the practice of**  
8 **genetic counseling in this state that the board is authorized by law to issue.**

9 **(2) "Bureau" means the Louisiana Bureau of Criminal Identification and**  
10 **Information of the office of state police within the Department of Public Safety**  
11 **and Corrections.**

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

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

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

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

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

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

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

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

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

17                  **E. If the criminal history record information reported by the bureau to**  
18                  **the board does not provide grounds for disqualification of the applicant for**  
19                  **licensure under the applicable law administered by the board, the board shall**  
20                  **have the authority to forward the applicant's fingerprints and such other**  
21                  **identifying information as may be required to the FBI with a request for a**  
22                  **search of national criminal history record information relative to the applicant.**

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

1 competent jurisdiction, be released or otherwise disclosed by the board to any  
2 other person or agency.

3 \* \* \*

4 §2863.1. Authorization to obtain criminal history record information

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

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

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

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

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

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

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

28 (1) To submit a full set of fingerprints, in a form and manner prescribed  
29 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 relative to the applicant and report the results of its search to the**  
16 **board within sixty days from receipt of any such request. The bureau may**  
17 **charge the board a processing fee for conducting and reporting on any such**  
18 **search.**

19           **E. If the criminal history record information reported by the bureau to**  
20 **the board does not provide grounds for disqualification of the applicant for**  
21 **licensure under the applicable law administered by the board, the board shall**  
22 **have the authority to forward the applicant's fingerprints and such other**  
23 **identifying information as may be required to the FBI with a request for a**  
24 **search of national criminal history record information relative to the applicant.**

25           **F. 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 deemed nonpublic and confidential information restricted**  
28 **to the exclusive use of the board, its members, officers, investigators, agents,**  
29 **and attorneys for the purpose of evaluating the applicant's eligibility or**

1            **disqualification for licensure. No such information or records related thereto**  
 2            **shall, except with the written consent of the applicant or by order of a court of**  
 3            **competent jurisdiction, be released or otherwise disclosed by the board to any**  
 4            **other person or agency.**

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

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## DIGEST

SB 19 Original

2019 Regular Session

Boudreaux

Present law authorizes the Louisiana State Board of Medical Examiners (LSBME) to regulate perfusionists, medical psychologists, genetic counselors, and polysomnographic health professionals. Proposed law authorizes the LSBME to request and obtain state and national criminal history record information as a requirement of application for license, registration, certificate, or permit to practice in this state.

Proposed law provides that the LSBME shall request and obtain state and national criminal history record information from the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections and the Federal Bureau of Investigation of the United States Department of Justice.

Proposed law provides that the LSBME, in addition to any other requirements established by regulation, shall require an applicant, as a condition of licensure to submit a full set of fingerprints, in a form and manner prescribed by the board, permit the board to request and obtain state and national criminal history record information on the applicant, and pay, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history record information on the applicant.

Proposed law provides for confidentiality of criminal history information obtained by LSBME and provides for the release of such information upon written consent of the applicant or by court order.

Proposed law provides for rulemaking.

Effective August 1, 2019.

(Adds R.S. 37:1338.1, 1360.53.1, 1360.104.1, and 2863.1)