DECLARATION OF EMERGENCY

Department of Health
Office of Public Health

EMS Licensing Pre-Application Eligibility Determination
(LAC 46:XXXVIII.306)

The Louisiana Department of Health, Emergency Medical Services Certification Commission, pursuant to the authority granted in R.S. 40:1133.4, hereby adopts the following emergency rule. This rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950, et seq.) generally, and R.S. 49:962 specifically.

The Louisiana Department of Health, Emergency Medical Services Certification Commission (EMSCC) finds it necessary to promulgate an emergency rule effective on March 15, 2023. This Emergency Rule is necessary to prevent imminent peril to the public health, safety, or welfare. Act 486 of the 2022 Regular Session of the Louisiana Legislature requires that certain professional licensing bodies, including the Louisiana Department of Health, Office of Public Health, Bureau of Emergency Medical Services ("BEMS"), allow potential licensees to obtain a pre-application determination as to whether their past criminal convictions would prevent eventual licensing. The Act is intended to increase the number of licensees by encouraging and allowing potential applicants with criminal convictions to determine their license eligibility before seeking or attaining required degrees or education, thereby helping to reduce the current shortages in certain professions. The Emergency Medical Services field in Louisiana is currently experiencing the exact type of shortage that the Act was intended to help alleviate. The shortage in the field currently rises to the level of a potential imminent peril to the public health. In order to help immediately effectuate the intent of the Act, the Emergency Medical Services Certification Commission has determined that an emergency rule is needed. The following Emergency Rule, effective March 15, 2023, shall remain in effect for a maximum of 180 days, or until the final Rule is promulgated, whichever occurs first.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXVIII. Emergency Medical Services Professionals
Subpart 1. Rules of Procedure
Chapter 3. Registration and Certification
§306. Pre-Application Eligibility Determination

A. An individual convicted of a crime may request at any time, including before obtaining any required education or training, a determination as to whether the individual's criminal conviction(s) disqualify the individual from licensure or certification by the Bureau of EMS ("BEMS").

1. The individual making the request shall provide to BEMS all pertinent information and documents pertaining to the conviction(s), including any information relevant to the factors provided in R.S. 37:2950. Any such request shall list and include all of the individual's convictions, regardless of jurisdiction and regardless of subsequent pardon or expungement, through the date of the request. After initial receipt of the request, BEMS may require that the individual submit additional pertinent information or documents.

2. In addition to any available facility for uploading such a request through a user account created on the BEMS website (URL: https://ldh.la.gov/subhome/28), the request may be made in writing and mailed to BEMS at 7273 Florida Blvd., Baton Rouge, LA 70806.

3. The individual making the request shall also provide to BEMS the individual's pertinent identifying information, including date of birth, social security number, and driver's license number.

4. The individual making the request shall provide a valid email address to which BEMS may send correspondence related to the request, including the determination as to whether the individual is disqualified.

5. Within 45 days after receipt of the request and all pertinent information and documents, including additional information or documents requested by BEMS pursuant to Paragraph A.1. of this Section, or within 45 days of receipt by BEMS of any criminal background check provided or requested by the individual, whichever is later, BEMS shall send notification to the individual concerning whether, based on the criminal information submitted, the individual is disqualified from receiving or possessing a license from BEMS. This determination, which may be disseminated to the requesting individual by email, shall be one of the following:

a. the conviction(s) do not make the individual ineligible to be licensed ("not ineligible"). Such determinations include instances where licensing may be necessarily accompanied by concurrent initial probation, per the EMSCC Deferred Decision Matrix or EMS Certification Commission Review Panel, unless a requested hearing before the EMS Certification Commission determines otherwise;

b. the conviction(s) make the individual presumptively ineligible to be licensed, in which case the following information shall be provided to the individual:

i. specific conviction(s) that constitute the basis for the presumptive ineligibility;

ii. reasons the conviction(s) are directly related to the license, using the factors set forth in R.S. 37:2950;

iii. right to submit within 60 days additional documentation or evidence relevant to each of the factors listed in R.S. 37:2950 concerning the conviction(s) upon which the presumptive ineligibility is based; and

iv. date of eligibility to apply or reapply for a license.

6. An individual who is informed that the conviction(s) at issue make him presumptively ineligible is entitled to a hearing ("appeal") before the EMS Certification Commission concerning such determination.

a. Such individual shall be placed on the agenda for a formal hearing at the next regularly scheduled meeting of the EMS Certification Commission, but may decline such a hearing if s/he does not wish to proceed. If the sixty-day period for providing additional documentation or evidence, as provided in Division A.4.b.iii of this Section, expires after the next scheduled meeting, the individual may request that the hearing be postponed until the subsequent regularly scheduled meeting.

7. A determination of "not ineligible" made pursuant to this Section is binding upon BEMS unless the individual is convicted of a subsequent crime between the inquiry period and the time of license application, has pending criminal charges at the time of license application, or has

undisclosed criminal convictions not revealed at the time of inquiry.

B. The following information can be found on the BEMS website and/or on the EMS license application:

1. the process by which BEMS investigates affirmative criminal background disclosures;

2. the deferred decision matrix used by BEMS regarding the criminal history of applicants;

3. additional details regarding the process by which potential applicants may obtain a determination regarding their license eligibility as it relates to criminal convictions.

C. When determining whether a conviction directly relates to the EMS profession, the EMS Certification Commission shall consider:

1. the nature and seriousness of the offense;

2. the nature of the specific duties and responsibilities of licensed EMTs, Advanced EMTs, Paramedics, and Emergency Medical Responders.

3. the amount of time since the conviction;

4. facts relevant to the circumstances of the underlying offense, including any aggravating or mitigating circumstances, or social conditions surrounding the commission of the offense; and

5. evidence of rehabilitation or treatment undertaken by the applicant since the conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

Public Comments

Interested persons may submit written comments to Susan Bailey, Director, Bureau of Emergency Medical Services, Office of Public Health, Louisiana Department of Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. She is responsible for responding to inquiries regarding this Emergency Rule.

Ryan Brown
EMS Certification Commission Chair

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