

LOUISIANA

Licensed Professional Counselors Board of Examiners

Effective Date: September 29, 2022

Authorized By: Ms. Raelene M. Lundin, Appointing Authority / Deputy Director

AMERICANS WITH DISABILITIES ACT (ADA) POLICY

I. PURPOSE

The **LOUISIANA LICENSED PROFESSIONAL COUNSELORS BOARD OF EXAMINERS** ("Board") is fully committed to ensuring compliance with the requirements of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq*) and its Amending Act of 2008 (collectively, "ADA") to include:

- Title I: Prohibits discrimination against qualified individuals with disabilities in all employment practices, including recruitment, hiring, advancement, compensation, fringe benefits, job training and other terms, conditions and privileges of employment. Upon request, the Board shall engage in an interactive process and may approve a reasonable accommodation, unless: (1) the requestor is not a qualified individual; (2) doing so poses an undue hardship to the Board; or, (3) poses a direct threat to the health or safety of the individual with a disability or others.

- Title II: Ensures qualified individuals with disabilities have equal access to the full range of programs, services, activities, and facilities of the Board. Upon request, the Board may provide a reasonable accommodation, unless: (1) the requestor is not a qualified individual; (2) doing so would fundamentally alter the nature of the Board's service, program, or activity; or, (3) poses a direct threat to the health or safety of the individual with a disability or others.

- A written outline of the Board's standards and procedures for ADA compliance and identification of the Board's ADA Coordinator. 28 CFR § 35.107(a).

- Promotion of and compliance with the ADA and Act 103 of the 2022 Regular Session of the Louisiana Legislature ("Act 103"), effective May 25, 2022.¹

- Acknowledgment that the Board is required to annually submit an Act 103 compliance report annually on February 1st and a "State as Model Employer" ("SAME") plan annually on December 1st. La. R.S. 46:2594.

II. SCOPE & APPLICABILITY

This Policy applies to all Board employees, appointed Board members, employment applicants, and general public members who receive services from the Board. All definitions, terms, and/or phrases used in this Policy shall have the meaning(s) ascribed by the ADA, Act 103, and this Policy's Section III ("Definitions"), as applicable and/or as subsequently amended by law. See La. R.S. 46:2592.

¹ Act 103; See La. R.S. 44:4.1(B)(31); La. R.S. 46:2952 – 2997.

III. DEFINITIONS

In accordance with the ADA:

A. Disability: An individual with a disability means any person who meets one of the following:

1. Has a physical or mental impairment that substantially limits one or more major life activities.
2. Has a record of such impairment.
3. Is reasonably regarded as having such impairment as described in Paragraph (1) of this Subsection.

B. Impairment: Means any physiological, mental, or psychological disorder or condition that substantially limits one or more major life activities when active, including those that may be episodic or in remission.

C. Substantially Limits: Means an impairment preventing the ability of an individual to perform one or more major life activities when compared with most people in the general population. Consideration factors include but are not limited to the nature, severity, duration, and long-term impact of the condition. The consideration factors shall be analyzed regardless of certain mitigating measures, including but not limited to modifications, auxiliary aids, or medications used to lessen condition effects (except for use of ordinary eyeglasses or contact lenses).

D. Major Life Activities: Means generally but is not limited to the following:

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working, *etc.*
2. The operation of a major bodily function, including functions of the immune system, special sense organs, and skin; normal cell growth; and, digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

E. Essential Functions: Means the fundamental and primary job duties of a position. The Board shall consider the following factors in determining whether a function is essential, including but not limited to: (1) the written job description; (2) whether the reason the position exists is to perform that function; (3) the limited number of employees available to perform that function; and, (4) the degree of expertise required to perform the function.

F. Qualified Individual:

1. Title I: Means an individual with a disability, who meets the requisite skill, experience, and education requirements for the position and who can perform the essential functions of the position held or applied for, with or without reasonable accommodation(s).

2. Title II: Means an individual with a disability, who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Board, with or without reasonable accommodation(s).

G. Reasonable Accommodations:

1. Title I: Means a modification or adjustment to the work environment enabling a qualified individual to do any of the following:

- a. Participate in the testing, application and/or interview process.
- b. Perform the essential functions of the job.
- c. Provide equal opportunity and access to the benefits and privileges of employment.

2. Title II: Means a modification that permits a qualified individual to effectively communicate with the Board and/or ensure equal opportunity relative to the Board's programs, services, activities, and facilities.

H. Undue Hardship: Means an accommodation that would be unduly costly, extensive, substantial, or disruptive in light of factors such as the size of the Board, the Board's available resources, and the nature of the Board's business operations.

I. Direct Threat: Means a significant risk of substantial harm to the health or safety of a qualified individual or others that cannot be eliminated or reduced by reasonable accommodation.

J. ADA Coordinator: Means the Board's representative, who is responsible for facilitating the interactive evaluation process, relative to any request for accommodation. The ADA Coordinator is identified as and/or may be contacted at: **Ms. Raelene M. Lundin, Deputy Director, 11410 Lake Sherwood Avenue North, Suite A, Baton Rouge, LA 70816; (225) 295-8444; lpboard@lpboard.org**. The ADA Coordinator shall ensure ADA compliance, in part, by doing at least the following:

1. Ensuring the Board's timely submission of annual Act 103 (2022 R.S.) compliance reports and SAME plans.
2. Requiring all Board supervisors and ADA Coordinators to timely complete and maintain records, relative to mandatory training requirements. La. R.S. 46:2595(C).
3. Prominently posting this Policy on the Board's public website, including but not limited to applicable complaint procedures. A notice providing instruction on how to obtain these documents shall be posted in a conspicuous location in each of the Board's offices if and/or when the Board does not maintain an active, operational website. La. R.S. 46:2595(D).

V. REQUESTING A REASONABLE ACCOMMODATION

It is the responsibility of the qualified individual to request a reasonable accommodation(s) when needed. If the accommodation request is from a Board employee, he or she may be required, as part of the interactive process, to provide the ADA Coordinator with medical documentation from their health care provider, describing the nature of the disability and

reasonably related functional limitations. To request a reasonable accommodation(s), the qualified individual:

- May initiate a request either verbally or in writing. A written request should be completed on the prescribed *Request for Accommodation Form*. The Board shall provide the individual with reasonable assistance completing the request form upon request.

- Shall submit the request to the ADA Coordinator, Executive Director, and/or appropriate Board supervisor, depending on the nature of the accommodation requested, as detailed in this Policy. *See* Policy Section III(J) (“ADA Coordinator”); *See also*, this Section V (“Requesting a Reasonable Accommodation”) and Section VI (“Interactive Process: Evaluating Accommodation Requests”).

- Shall timely and cooperatively participate in the interactive process as detailed in this Policy. *See* Section VI (“Interactive Process: Evaluating Accommodation Requests”).

A. Employment (Title I):

1. Application/Testing Process: A qualified individual may address an accommodation request, relative to the application and / or testing process and dependent upon the *Job Type* indicated on the vacancy announcement, to the following:

- a. Classified Jobs: Please contact State Civil Service, Testing and Recruiting Office at (225) 925-1911. For more information regarding accommodations, applicants may go to <https://jobs.civilservice.louisiana.gov/TestInformation/Accommodations.aspx>.

- b. Unclassified Jobs: Please contact the Board representative identified in the vacancy announcement for the job being sought. The Board representative shall notify and collaborate with the ADA Coordinator to address the accommodation request.

2. Interview Process: If contacted for an interview, a qualified individual should notify the hiring manager at that time if an accommodation is needed in order to participate in the interview and, if so, the nature of the accommodation. The hiring manager shall notify and collaborate with the ADA Coordinator to address the accommodation request.

3. Performance of Essential Functions: A qualified individual may address an accommodation request, relative to the performance of the job’s essential functions, to the following contact(s):

- a. If needed prior to or at the time of hire for a position, the accommodation request should be submitted to the person with or by whom the individual has been directly contacted or interviewed.

- b. If employed by the Board and needed for the current job held, the accommodation request should be addressed to the qualified individual’s immediate supervisor.

- c. In the event of either Subparagraph (a) or (b) of this Paragraph (3), the interviewer and/or immediate supervisor shall notify and collaborate with the ADA Coordinator to address the accommodation request. Such requests shall include the duties the individual is unable to reasonably perform and the accommodation(s) requested. Such accommodations may include job restructuring, use of accrued paid leave (or once exhausted, unpaid leave), modified or part-time work schedules, acquiring equipment, and/or reassignment.

Board’s programs, services, and activities should contact the ADA Coordinator. Such requests should include the specific program, service, or facility that the individual is unable to access and the accommodation(s) requested.

VI. INTERACTIVE PROCESS: EVALUATING ACCOMMODATION REQUESTS

A. Receipt; initial response: Upon receipt of an accommodation request, the Board employee, Board member, and/or other authorized agent, who actually receives an accommodation request, shall immediately notify the ADA Coordinator and/or the Appointing Authority when the ADA Coordinator is unavailable. Following upon receipt of such notice, the ADA Coordinator and/or the Appointing Authority shall reasonably do all the following:

1. Document the request, if not submitted in writing by the requestor, on the *Request for Accommodation Form*.
2. Notify the requestor, if he or she is a current Board employee, whether a completed *Medical Inquiry Form* from a health care provider is required.
3. Engage in an interactive process involving consultation with the requestor, the treating physician as applicable and/or necessary, and the Board's executive management.
4. Confer with the Louisiana Rehabilitation Services and/or Job Accommodation Network (JAN), as appropriate, for assistance evaluating available accommodation options and related resources.
5. Discuss any alternative, equally effective accommodations with the requestor, as appropriate.
6. Recommend to and secure approval from the Appointing Authority as to the final determination of the accommodation request.
7. Notify the requestor, in writing, of the final determination, including information regarding the Board's internal grievance procedure.

B. Case-by-Case Evaluation: The Board shall duly consider and thoroughly and objectively evaluate all requested accommodations that relate in any manner to the ADA or this Policy on a case-by-case basis. Qualified individuals are encouraged to request accommodations based upon their own life and/or work experiences. Notwithstanding any other provision interpreted to the contrary, the Board reserves the right to select an equally effective accommodation, which may be less expensive or impactful on business operations. The Board shall maintain written evidence of all the following at a minimum:

1. The date of the Board's actual receipt of the request.
2. The accommodations requested by the requestor.
3. The Board's final action / decision meant to substantively answer or complete the request, including but not limited to the Board's final action(s) and/or reasonable accommodations actually provided or implemented.
4. All reasonable, equally-effective accommodations offered and/or actually provided or implemented by the Board in response to the Request.
5. All reasonable business reasons for the Board's final decision / action(s).

VII. INTERNAL COMPLAINT & GRIEVANCE PROCEDURE

The Board's internal grievance procedure is available to qualified individuals for resolution of complaints, relative to the disposition of an accommodation request or any action that would be prohibited by the ADA:

A. Employees: Board employees may submit an internal grievance request, regarding an accommodation request, directly to the address of record for 1 or more Board members appointed in accordance with the Louisiana Mental Health Counselor Licensing Act (La. R.S. 37:1101 *et seq*) or the Board's Appointing Authority / Executive Director, who is identified as and/or may be contacted at: **Ms. Jamie S. Doming, Appointing Authority / Executive Director, 11410 Lake Sherwood Avenue North, Suite A, Baton Rouge, LA 70816; (225) 295-8444; director@lpcboard.org.**

B. Applicants / General Public: Complaints regarding the Board's compliance with the ADA and/or Act 103, generally, or specifically regarding the application, testing, interview process, and/or accessibility of a program, service, or activity of the Board may be addressed to the address of record for 1 or more Board members appointed in accordance with Louisiana Mental Health Counselor Licensing Act or the Board's Appointing Authority / Executive Director, who is identified as and/or may be contacted at: **Ms. Jamie S. Doming, Appointing Authority / Executive Director, 11410 Lake Sherwood Avenue North, Suite A, Baton Rouge, LA 70816; (225) 295-8444; director@lpcboard.org.**

VIII. PROTECTIONS

No individual shall be discriminated or retaliated against, coerced, intimidated, threatened, harassed, and/or interfered with for any of the following:

- Making an accommodation request.
- Opposing any act or practice made unlawful by the ADA.
- Filing a charge, testifying, assisting, or otherwise participating in an investigation, proceeding, or hearing to enforce any ADA and/or Act 103 provision.
- Aiding or encouraging another individual in the exercise of any right granted or protected by the ADA.
- Having a family, business, social, or other relationship or association with an individual with a known disability.

IX. PUBLIC NOTICE

This Policy shall be made publicly accessible on the Board's website at: <https://www.lpcboard.org/>. The Board shall ensure the Policy's availability to all interested persons and shall otherwise post the Policy conspicuously in each of the Board's facilities.

X. DOCUMENTATION & RECORDKEEPING

The forms associated with this Policy are available by request to the ADA Coordinator and/or at: <https://www.lpcboard.org/>. Available forms include: (1) *Request for Accommodation Form*; and, (2) *Medical Inquiry Form*.

A. Mandatory Training: The Board shall require all supervisors and designated ADA Coordinators to receive a minimum of 1 hour of live or online ADA education and training within ninety (90) days of his or her hire and/or appointment to a supervisory position and shall complete such training obligation every three (3) years thereafter. La. R.S. 46:2595.

B. Voluntary Self-ID; Form:²

1. The Board shall ensure that all employees – upon both (a) the time of initial employment and (b) every five (5) years thereafter – are provided reasonable, written notice and opportunity to complete a voluntary self-identification of disability form for effective data collection and analysis of the percentage of individuals with disabilities employed by the Board.

2. The Form shall: (a) Request disclosure only regarding whether an employee has a disability, without reference to or identification of the actual impairment, disability, or medical condition; (b) Be confidential; and, (c) Be filed in a restricted-access folder, which is separate from the employee's personnel file. La. R.S. 46:2597.

C. SAME Plan (December 1st Annually):³ The Board shall ensure that the Board timely submits a SAME Plan by December 1st annually in the manner prescribed by the State ADA Coordinator and in accordance with law.

D. Compliance Report (February 1st Annually): Beginning February 1, 2024 and annually on that date thereafter, the Board shall compile and submit an annual compliance report to the State ADA Coordinator, containing information from the previous calendar year regarding the Board's compliance with both this Policy and Act 103 ("Annual Report"). La. R.S. 46:2596. The Annual Report shall include at least the following:

1. The date of and signature of the Appointing Authority.
2. The number and percentage of supervisors and ADA Coordinators, respectively, in the Board who have completed the training requirements
3. The number of accommodation requests received by the Board.
4. The number, nature, and cost of accommodation requests granted.
5. The number of accommodation requests denied.
6. The amount of time required to resolve each request from date of receipt to the date the individual was notified in writing of the final determination of the request.

² Voluntary Self-ID Form (Source: LA Division of Administration website, September 11, 2022).

³ SAME Plan Template (Rev. June 2022); See also, State As a Model Employer (SAME) (Source: LA Division of Administration website, September 11, 2022).

7. The number of ADA-related complaints filed with the U.S. Equal Employment Opportunity Commission (EEOC), Louisiana Commission on Human Rights, and the U.S. Department of Justice and/or the number of such related civil actions filed against the Board in either state or federal court, including but not limited to all identifying court, docket, and/or formal case numbers.

XI. CONFIDENTIALITY

Documentation of any kind obtained pursuant to or as part of an accommodation request shall be maintained as a confidential record(s), including but not limited to medical and other relevant information. The Board shall maintain ADA, confidential records separately from an employee's personnel record and shall be disclosed only when specifically required by law or court order or with the individual's permission. Such data shall not include personally identifying information, a requestor's name, references to confidential medical conditions or impairments, and/or any other information required by law to be redacted by the Board. La. R.S. 46:2596(A).


XII. ADDITIONAL RESOURCES

For additional resources, please contact Rikki Nicole David, State ADA Coordinator, at rikki.david@la.gov or (225) 342-1243. Individuals may also contact or file a complaint with the following entities:

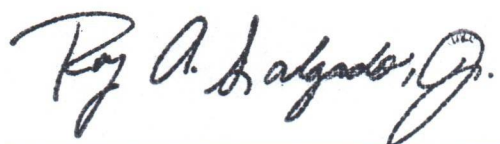
- U.S. Equal Employment Opportunity Commission (EEOC): 1-800-669-4000, 1-800-669-6820 (TTY for Deaf/Hard of Hearing callers only) or 1-844-234-5122 (ASL Video Phone for Deaf/Hard of Hearing callers only) (*See Title I: 29 CFR § 1630.1 – 1630.16*).
- Louisiana Commission on Human Rights: 225-342-6969 (La. R.S. 23:323 *et seq.*).
- U.S. Department of Justice (DOJ), Civil Rights Division: 202-514-3847 or 202-514-0716 (TTY for Deaf/Hard of Hearing callers only) (*See Title II: 28 CFR § 35.101 – 35.190*).

Be advised that strict time limitations apply for filing complaints with these governmental agencies.

AUTHORIZED BY:



Raelene M. Lundin, Deputy Director



Roy A. Salgado, Jr., Ph.D., Board Chair

Date: 10/5/2022

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