

# **THE LOUISIANA VOCATIONAL REHABILITATION COUNSELORS LICENSING ACT**

To amend and reenact R.S. 36:803 and to enact Chapter 53 of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:3441 through 3452, and R.S. 36:259(E)(21), relative to the practice of rehabilitation counseling; to provide for the licensing of rehabilitation counselors; to create the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners in the Department of Health and Hospitals; to provide for board membership, terms of office, powers, duties, and for a report to the governor, to provide for various fees and requirements, to provide for requirements for licensure, for licensure without examination, and for renewal of licenses; to provide relative to violation, revocation of licenses, and penalties; to provide exclusions to licensure requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 53 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:3441 through 3452, is hereby enacted to read as follows:

## **CHAPTER 53 REHABILITATION COUNSELORS**

### **§3441. Short title**

This Chapter shall be known and may be cited as the "Louisiana Rehabilitation Counselor Licensing Act."

### **§3442. Statement of purposes**

It is declared to be the policy of this state that activities of those persons who render service to the public in the rehabilitation counseling area and use the title "licensed professional vocational rehabilitation counselor" should be regulated for the protection of public health, safety, and welfare. Therefore, it is the purpose of this Chapter to provide for the regulation of the practice of rehabilitation counseling in the state and to provide for the regulation of the use of the title "licensed professional rehabilitation counselor."

### **§3443. Definitions**

As used in this Chapter, the following terms shall mean the following, unless the context requires otherwise:

1. "Board" means the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners.

2. "Licensed professional vocational rehabilitation counselor" means any person who holds himself out to the public, for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional vocational rehabilitation counselor" or any similar term, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to engage in the practice of rehabilitation counseling pursuant to this Chapter.
3. "Practice of rehabilitation counseling" means rendering or offering to individuals, groups, organizations, or the general public rehabilitation services in private practice for compensation involving the application of principles, methods, or procedures of the rehabilitation counseling profession which include but are not limited to:
  - a. "Rehabilitation counseling" which means assisting an individual or group, through the counseling relationship, to define vocational goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to rehabilitation concerns, educational progress, and occupations and careers.
  - b. "Referral activities" which means the evaluating of data to identify vocational problems and to determine the advisability of referral to other specialists.
  - c. "Vocational rehabilitation services" which includes, but is not limited to, vocational assessment, vocational counseling, education, and training services, including on-the-job training, self-employment plans, **job analysis**, and job placement. For purposes of this Chapter, Vocational assessment@ includes, but is not limited to, the administration, interpretation, and use of single scale screening tests of intelligence and tests of education, achievement, personal traits, interests, aptitudes, abilities, language, adaptive behavioral tests and symptom screening checklist, solely to define vocational goals and plan actions as related to rehabilitation concerns, educational progress, and occupations and careers.
  - d. Referral activities and vocational rehabilitation services shall not include neuropsychological testing.
4. "Rehabilitation counseling services" which means those acts and behaviors coming within the "practice of rehabilitation counseling" as defined in this Chapter.

**§3444. Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners**

- A. There is hereby created in the Department of Health and Hospitals the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the "board" consisting of five members, who shall be residents of the state of Louisiana. The members shall be appointed by the governor from a list of

- qualified candidates supplied by the Louisiana Association of Rehabilitation Professionals, as specified in this Section within sixty days after July 14, 1988 to serve the following terms: one member for a term of two years, two members for terms of three years, and two members for terms of four years. Thereafter, each term shall be for four years. Each appointment by the governor shall be submitted to the Senate for confirmation.
- B. The membership of the board shall consist of three licensed professional vocational rehabilitation counselors and two individuals from the public at large. The original professional membership of the board shall be qualified to be licensed under this Chapter, except that the initial professional members shall be persons who have rendered rehabilitation counseling for at least three years. Within thirty days after the effective date of this Chapter, the executive committee of the Louisiana Association for Rehabilitation Professionals shall submit to the governor a list of qualified candidates for the board. The board shall perform such duties and exercise such powers as this Chapter prescribes and confers upon it. No member of the board shall be individually liable for any act or omission resulting in damage or injury, arising out of the exercise of his judgment in the formation and implementation of policy while acting as a member of the board, provided he was acting in good faith and within the scope of his official functions and duties, unless the damage or injury was caused by his willful or wanton misconduct.
  - C. No board member shall serve more than two full consecutive terms. Subsequent appointments to the board shall be made in the manner of the original appointments, including the submission of a list of qualified candidates by the executive committee of the Louisiana Association for Rehabilitation Professionals. Any board member may be removed by the governor or majority vote of the board, after notice and hearing, for incompetence, neglect of duty, malfeasance in office, or moral turpitude. Any vacancy occurring in board membership, other than by expiration of term, shall be filled for the remainder of the unexpired term by the governor within thirty days from a list of qualified candidates supplied by the Louisiana Association for Rehabilitation Professionals.
  - D. Each board member shall serve without compensation, but shall be reimbursed for actual travel, incidental, and clerical expenses incurred while engaged on official board business.
  - E. Each board member shall take the constitutional oath of office for state officials before any officer authorized to administer oaths in this state.

**§3445. Board Meetings; Procedures; Powers and Duties.**

- A. The board shall be domiciled and hold its meetings in Baton Rouge. The board shall hold a meeting within sixty days after October 1, 1988, and semiannually thereafter. The board shall elect from its membership a chairman, vice chairman, and secretary. The board may meet at such other times as deemed necessary by the chairman, or by the

majority of its members, or by the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. Three members of the board shall constitute a quorum at any meeting or hearing.

- B. A clerical secretary, who shall not be a member of the board, shall be employed, within the limits of the funds received by the board pursuant to R.S. 37:3446. The board shall be empowered to accept federal and state grants and grants from foundations and institutions to carry on its functions.
- C. The board shall adopt a seal which shall be affixed to all licenses issued by the board.
- D. The board shall adopt such rules regulations, and examination procedures as it may deem necessary to effect the provisions in this Chapter. The board shall adopt the Code of Ethics of the National Association for Rehabilitation Professionals in the Private Sector, including any revisions or additions deemed appropriate or necessary by the board.
- E. The board may examine, approve, revoke, suspend, and renew the license of applicants and shall review applications at least once a year. The board shall keep a record of its proceedings including applicant examinations, a register of applicants for licenses, and a register of licensed professional vocational rehabilitation counselors which shall be made available to the public. Any person aggrieved by a ruling of the board may, within thirty days after notification, appeal to the district court for the parish of East Baton Rouge. The board shall have the power to conduct hearings on suspension or revocation of a license.

**§3446. Fees; application for license**

- A. The board shall **by rule, establish and collect fees not in excess of the following amounts:**

(1)	Application, license, and seal	<b><u>\$200.00</u></b>
(2)	Written examination	<b><u>\$100.00</u></b>
(3)	Renewal of license	<b><u>\$100.00</u></b>
(4)	Reissuance for lost or destroyed license	\$50.00

- B. No part of any fee shall be refundable under any conditions other than failure of the board to hold examination on the date originally announced. All fees collected in this manner and all gifts or grants shall be deposited and credited to the account of the board in a licensed financial institution of the board's choosing. The funds of the board may be used for printing, travel expenses of the board, and for other necessary expenses as are essential to the carrying out of the provisions of this Chapter. Expenses shall be paid under the written direction of the chairman of the board in accordance with procedures established by the division of administration. Any surplus at the end of the fiscal year shall be retained by the board for future expenditures.

**§3447. Requirements for licensed professional counselor; renewal of license**

- A. The board shall issue a license to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by such fee as required by R.S. 37:3446, and who furnishes satisfactory evidence to the board that he:
- (1) Is at least twenty-one years of age.
  - (2) Is of good moral character.
  - (3) Is not in violation of any of the provisions of this Chapter and the rules and regulations adopted hereunder.
  - (4) Has declared special competencies and demonstrated professional competence therein by passing a written or oral examination, as the board shall prescribe.
  - (5) Has received a master's degree in rehabilitation counseling or related field and two years experience under the supervision of a licensed vocational rehabilitation counselor or a bachelor's degree in vocational rehabilitation or related field and five years work experience, working under the supervision of a licensed vocational rehabilitation counselor.
- B. The board shall license to practice all persons who present satisfactory evidence of qualifications as specified in this Section and under provisions of the rules and regulations of the board. Such licensure shall be signed by the chairman and vice chairman of the board under the seal of the board.
- C. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

**§3448. License without examination**

For a period of one year from December 31, 1988, the board shall waive both written and oral examination and shall issue a license as a licensed professional vocational rehabilitation counselor to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by such fees required by R.S. 37:3446, and who furnished satisfactory evidence to the board that he:

- (1) Is at least twenty-one years old.
- (2) Is of good moral character.
- (3) Is not in violation of any of the provisions of this Chapter and the rules and regulations adopted hereunder.
- (4) Has received one of the following:

- (a) A master's degree in rehabilitation counseling or related field and two year's experience in a vocational rehabilitation setting.
- (b) A bachelor's degree in rehabilitation counseling or related field and five years experience in a vocational rehabilitation setting.
- (c) Certified rehabilitation counselor or certified insurance rehabilitation specialist and ten years of vocational rehabilitation experience.

**§3449. Denial, revocation, or suspension of license**

- A. The board, by affirmative vote of at least four of its five members, shall withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of this Chapter or otherwise discipline a licensed professional vocational rehabilitation counselor upon proof that the applicant or licensed professional vocational rehabilitation counselor:
  - (1) Has been convicted in a court of competence jurisdiction of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.
  - (2) Has violated the code of ethics adopted by the board.
  - (3) Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to any other person or the public, or to an extent that said use impairs his ability to perform the work of a licensed rehabilitation counselor.
  - (4) Has impersonated another person holding a professional vocational rehabilitation counselor license or allowed another person to use his license.
  - (5) Has used fraud or deception in applying for a license or in taking an examination provided for in this Chapter.
  - (6) Has allowed his name or license issued under this Chapter to be used in connection with any person who performs rehabilitation counseling services outside of the area of his training, experience, or competence.
  - (7) Is legally adjudicated mentally incompetent, the record of such adjudication being conclusive evidence thereof.
  - (8) Has willfully or negligently violated any of the provisions of this Chapter.
- B. Notice of denial, revocation, suspension, or disciplinary action shall be sent to the applicant or licensee by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the person's last known address, but the nonappearance of the person shall not prevent such a hearing. For the purpose of such hearing, the board may subpoena persons, books, and papers, on its own behalf or on behalf of the applicant or licensee who, may appear by counsel or personally in his own behalf.
- C. On the basis of any hearing or upon default of applicant or licensee, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such

determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision of the board denying, revoking, or suspending the license shall become final thirty days after being mailed or served unless within said period the applicant or licensee appeals the decision as provided by the Administrative Procedure Act. No such appeal while pending appropriate court action shall supersede such denial, revocation, or suspension. All proceedings and evidence presented at hearings before the board may be admissible during appellate proceedings.

- D. Every order and judgment of the board shall take effect immediately on its promulgation unless the board in such order or judgment fixes a probationary period for the applicant or licensee. Such order and judgment shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgments in such manner and form as it deems proper.
- E. The board may suspend the license of a licensed rehabilitation counselor for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked under the provisions of this Section may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

### **§3450. Violations, penalties**

- A **(1)** No person shall assume or use the title or designation "licensed professional vocational rehabilitation counselor" unless he has in his possession a valid license issued by the board under the authority of this Chapter. This provision shall become effective on January 1, 1989. Whoever violates the provisions of this Subsection shall be guilty of a misdemeanor and shall upon conviction be fined not more than five hundred dollars.
- (2)** (a) **Except as provided in R.S. 37:3452, no person shall perform the services of a vocational rehabilitation counselor unless he has in his possession a valid license issued by the board under the authority of this Chapter.**
- (b) **Except as provided in R.S. 37:3452, no person shall hold himself out as an expert of vocational rehabilitation services unless he has in his possession a valid license issued by the board under the authority of this Chapter**
- (3)** **Whoever violates the provisions of this Subsection shall be guilty of a misdemeanor and shall upon conviction be fined not more than five**

**hundred dollars.**

- B. The board shall have the authority to administer oaths, to summon witnesses, and to take testimony in all matters relating to its duties. The attorney general of the state shall be the attorney of the board, but the board may employ other counsel. It shall be the duty of the district attorney of the judicial district wherein any offense is committed to prosecute violations of this Chapter. The board shall be the sole agency in this state empowered to issue licensed to professional vocational rehabilitation counselors.

**§3451. Injunctive proceedings**

- A. The board may, through the attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by this Chapter.
- B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by this Chapter, the court shall enter a decree enjoining the defendant from further committing such act.
- C. In case of violation of any injunction issued under the provisions of this Section, the court may summarily try and punish the offender for contempt of court.
- D. Such injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Chapter.

**§3452=. Exclusions**

The following persons and their activities are exempted from the licensing requirements of this Chapter:

- (1) A certified school counselor who meets the standards prescribed by the State Department of Education and the Board of Elementary and Secondary Education, while practicing school counseling within the scope of his employment by a board of education or by a private school.
- (2) Any non-resident temporarily employed in this state to render rehabilitation counseling services for not more than thirty days a year, who meets the requirements for licensure in R.S. 37:3447 of this Chapter or who holds a valid license or certificate issued under the authority of the laws of another state or national certifying agency.
- (3) Any person employed or supervised by a licensed professional rehabilitation counselor, while carrying out specific tasks under the licensee's supervision. The

supervisee shall not represent himself to the public as a licensed professional rehabilitation counselor.

- (4) Any student in an accredited educational institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a professional rehabilitation counselor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.
- (5) Any individual using the official title of the position and activities for which that person is employed by any federal or state agency, any agency of a parish, municipality, or other political subdivision, any private nonprofit agency, accredited clinic, nonprofit hospital, or for profit hospital, provided that such persons are performing these activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization by which they are employed. Such persons shall not render rehabilitation counseling services to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization by which they are employed.
- (6) Any persons licensed, certified, or registered under any other provision of state law or under the rules of the Louisiana Supreme Court while practicing those arts, utilizing counseling, and utilizing those titles that are allowed and within the standards and ethics of their profession or within new areas of practice that represent appropriate extensions of their profession.
- (7) Any priest, rabbi, Christian Science practitioner, or minister of the gospel of any religious denomination.

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