

# Applying for Occupational and Professional Licenses With A Conviction Record

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**LEGAL ACTION CENTER**

*Breaking Barriers. Defending Dignity.*

# Breaking Barriers. Defending Dignity.

The Legal Action Center uses legal and policy strategies to fight discrimination, build health equity, and restore opportunity for people with arrest and conviction records, substance use disorders, and HIV and AIDS.

# LAC's Vision

- **We envision a society that upholds the civil rights of all individuals, regardless of their history of justice involvement or medical condition.**
- We fight to **end punitive responses to health conditions** like addiction, mental illness, and HIV or AIDS, and to create equitable access to affordable, quality treatment.
- We do our part to **dismantle the historic and persistent impact of systemic racism** that has fueled mass incarceration and disparate community health systems.

# What are civil rights?

- Civil rights are personal rights guaranteed and protected by the U.S. Constitution, and federal, state, and local laws, including protection from unlawful discrimination.
- LAC uses the power of law and policy under the U.S. Constitution and federal, state, and local law to protect the civil rights of people with arrest and conviction records, people who use(d) drugs, and people with HIV or AIDS.

# Language Matters. Words Have Power. People First.

The Legal Action Center uses affirming language to promote dignity and combat stigma and discrimination.

# Examples of Preferred Language

*Source:*  
Changing the Narrative

Terms and phrases to be avoided in specific context and situations:

## RECOVERY DIALECTS

Language matters but can change depending on the setting we are in. Choosing when and where to use certain language and labels can help reduce stigma and discrimination towards substance use and recovery.

	Mutual Aid Meetings	In Public	With Clients	Medical Settings	Journalists
Addict	✓	✗	✗	✗	✗
Alcoholic	✓	✗	✗	✗	✗
Substance Abuser	✗	✗	✗	✗	✗
Opioid Addict	✓	✗	✗	✗	✗
Relapse	✓	✗	✗	✗	✗
Medication-Assisted Treatment	✗	✗	✗	✗	✗
Medication-Assisted Recovery	✓	✓	✓	✓	✓
Person w/ a Substance Use Disorder	✓	✓	✓	✓	✓
Person w/ an Alcohol Use Disorder	✓	✓	✓	✓	✓
Person w/ an Opioid Use Disorder	✓	✓	✓	✓	✓
Long-Term Recovery	✓	✓	✓	✓	✓
Pharmacotherapy	✓	✓	✓	✓	✓

Credit: [Robert D Ashford et al., \*Drug and Alcohol Dependence\* \(2018\)](#)

# Examples of Preferred Language

Preferred Language	Stigmatizing Language
Person impacted by/involved with the criminal legal system; person with an arrest or conviction record/history; person on parole/under parole supervision	Felon, convict, offender, inmate, criminal, prisoner
Formerly incarcerated individual, person with past justice-involvement, person with justice history	Ex-con, former inmate, former prisoner, ex-offender
Substance use (disorder); individual with substance use disorder (SUD), or more specifically, for example, opioid use disorder (OUD); person who uses drugs	Substance abuse (disorder), addict, substance abuser, user, drug offender
Person living with HIV	HIV infected person; HIV or AIDS patient; AIDS or HIV carrier

Source: [\*LAC External Language Guide\*](#)

# How LAC Works

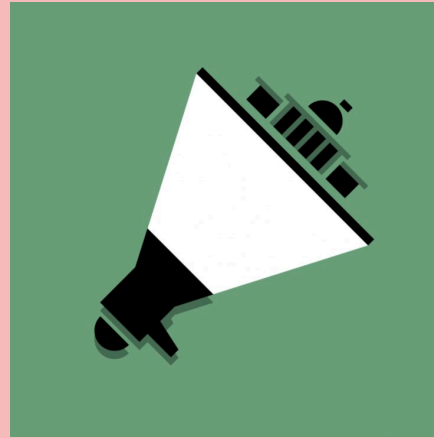
Direct Legal  
Services



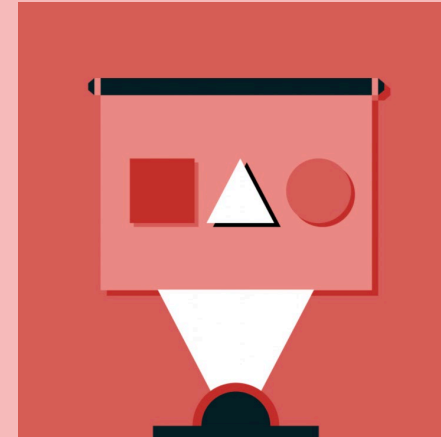
Impact  
Litigation



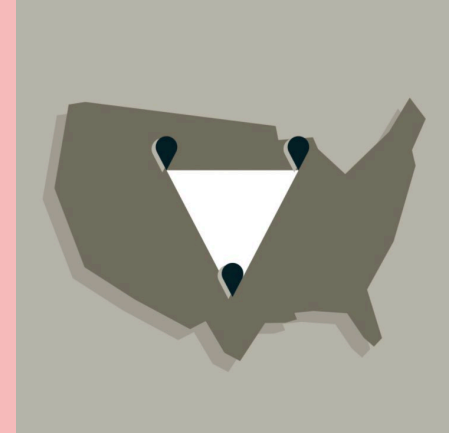
Policy  
Advocacy



Technical  
Assistance &  
Education



Coalitions &  
Collaboration





# What to expect in this training

- Overview of the general licensure process
- Best practices for disclosing information about your conviction record
- How to craft an effective personal statement
- What makes a good reference letter and witness
- What laws protect license applicants with conviction records
- The difference between licensure and clearance
- Where to find more information about your specific license

This training does not focus on what happens (1) if you hold a professional license and are convicted of a new crime, or (2) restoring a revoked license. We may be able to provide advice on these issues if you call us at 212-243-1313

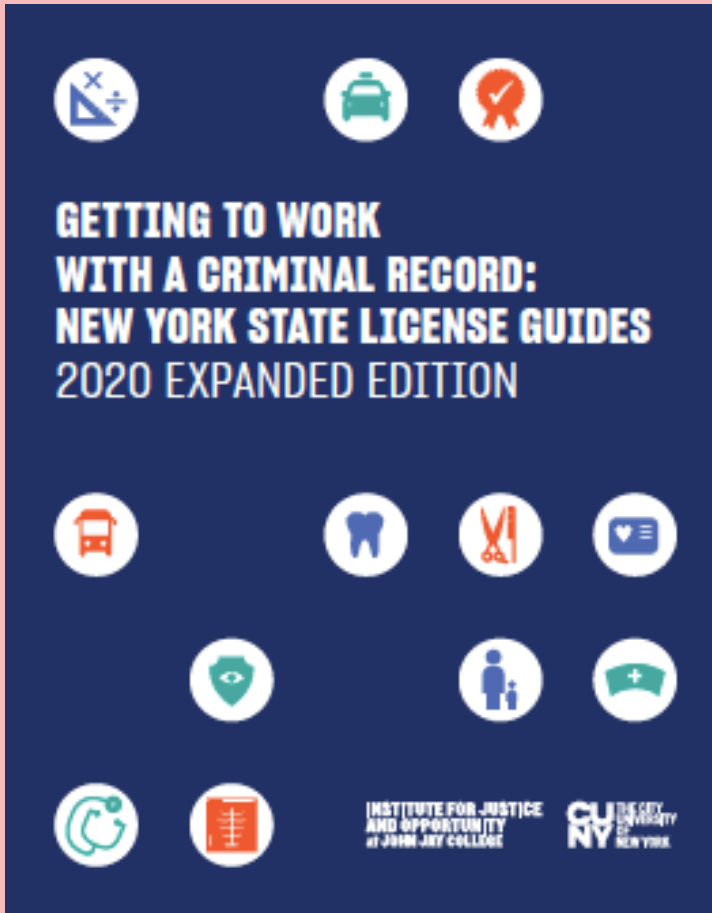
An occupational or professional **license** is a permit issued by the government that allows people to work in a particular field, e.g., registered nurse, social worker, security guard ...

Occupational **clearance** is a check to ensure workers have the appropriate credentials and are “fit” to do the job, e.g., certified nursing assistant, home health aide ...

# General Licensing Process



# Licensing Overview



- Government agencies issue licenses for certain jobs
- Each agency sets its own licensing process
- Different licenses have different requirements
- Consult the guide linked here for information about your specific license!

# What *must* applicants disclose on an application?

- When applying, licensing agencies will ask:
  - “Do you have **any** misdemeanor or felony **convictions**, or **open cases**?”
- If you have a misdemeanor, felony, or open case, do you have to answer this question?
  - **YES**

# Cases applicants should *not* disclose

- For ***most***\* licenses, applicants do ***not*** need to disclose the following:
  - Sealed misdemeanor or felony convictions\*\*
  - Youthful offender (YO) or juvenile delinquent (JD) adjudications
  - Expunged marijuana or loitering convictions
  - Cases adjourned in contemplation of dismissal (ACDs)
  - Any arrest that did not result in a conviction
- If asked about these cases, applicants may legally answer as if the cases never happened

\*Exceptions include law enforcement agencies, Port Authority, and FDNY

\*\* Cases sealed by the new Clean Slate law will have different rules...

# You've probably heard about Clean Slate ... unfortunately licensure agencies will still be able to see your convictions

Exceptions to Clean Slate sealing include:

- Entities allowed to run fingerprint-based background checks for work with vulnerable populations like children, elders, and people with disabilities
- Entities mandated by law to consider sealed records or run fingerprint-based background checks;
- New York State Education Department (NYSED) for purposes including hiring in public, private, and religious schools, ***disciplinary proceedings, and licensing***;
- Private transportation companies like Uber and Lyft; and
- Police and peace officer jobs, which include corrections officers and some armed security guards employed by the government



- Automatically seals misdemeanors after three years with no new convictions
- Automatically seals most felonies after eight years with no new convictions
  - Exceptions are sex offenses, sexually violent offenses, and Class A non-drug felonies like murder
- Waiting periods start on the sentencing date for the most recent conviction or the release date of the most recent incarceration – whichever date is later
- Courts will automatically seal eligible cases on or before November 16, 2027



# Can someone automatically be denied a license simply because of their conviction?

- For *most* licenses, the answer is no. Most licenses have no automatic disqualification for *any conviction*
- Instead, applicants go through an individualized “moral character” process

- Licenses with automatic disqualification\* for certain convictions include:
  - Security Guard
  - NYC Firefighter
  - Bus Driver
  - Childcare/Daycare Employee
  - Chauffeur
  - Certified Nurse Aide (not automatic, but likely denial for certain convictions)

\*You may be able to remove the automatic bar by getting a Certificate of Relief or Good Conduct

- Applicants will be required to provide this court document as part of the application
- You should request the PUBLIC version from the court clerk's office where the case happened
- May cost between \$5-\$15 each
- Sealed cases have a **stamp** on the disposition. Do NOT give these sealed dispositions to employers
- LAC may be able to help you get these from the court

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# BRONX CRIMINAL COURT

265 E 161 Street, Bronx, NY 10451

# NO FEE

Non-Public  
Version

Court ORI: NY0620331

The People of the State of New York

vs.

Certificate of Disposition

Docket Number:

Legacy Docket Number:

CJTN:

NYSID:

Defendant DOB: [REDACTED]

Arrest Date: 04/16/1996

Arraignment Date: 04/17/1996

THIS IS TO CERTIFY that the undersigned has examined the files of the **Bronx Criminal Court** concerning the above entitled matter and finds the following:

Count #	Charge	Charge Weight	Disposition	Disposition Date			
1	PL 220.39 01 BF CPCS-3rd/Narcotic Drug	BF	Covered by (Count #4)	04/28/2002			
2	PL 220.16 01 BF CPCS-3rd/Narc Int/Sell	BF	Reduced to (Count #3)	04/22/1996			
3	PL 220.63 AM Crim Poss Const Subst-7th	AM	Covered by (Count #4)	04/28/2002			
Count	Incident Date	Sentence Charge	Charge Description	Charge Weight	Conviction Type	Conviction/ Sentence Date	Sentence Highlight
4	04/16/1996	PL 240.20	Disorderly Conduct	V	Pled Guilty	10/23/1996	* Conditional Discharge (1 Year) + Surcharge (M5) (\$43.00) 15 d - due 12/28/1996)

A balance remains due and owing for fines, fees and/or surcharges imposed at sentence.

Charge Weight Key: Inf-Indiction, V-Violation, AM-BM-Crim Misdemeanor, UM-Unclassified Misdemeanor, AF, BF, CF, DF, EC-Class Felony

Dated: April 29, 2022

*[Signature]*  
Chief Clerk/Clerk of the Court

CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT SEAL.

All marijuana convictions under PL 221.05, PL 221.10, PL 221.15, PL 221.30, PL 221.35 or PL 221.40—including any appearing on this certificate of disposition—are vacated, dismissed, sealed, and expunged. It is an unlawful discriminatory practice for any entity to make any inquiry about such an expunged conviction or to use such an expunged conviction adversely against an individual in any form of application or otherwise—unless specifically required or permitted to do so by statute. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by an order adjudging the criminal action in contemplation of dismissal, pursuant to sections 170.55, 170.56, 210.46, 210.47, or 215.10 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law or by a conviction which is sealed pursuant to section 160.59 or 160.58 of the criminal procedure law, in connection with the licensing, housing, employment, including volunteer positions, or providing of credit or insurance to such individual; provided, further, that no person shall be required to divulge information pertaining to any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by an order adjudging the criminal action in contemplation of dismissal, pursuant to sections 170.55 or 170.56, 210.46, 210.47 or 215.10 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, or by a conviction which is sealed pursuant to section 160.58 or 160.59 of the criminal procedure law. An individual requested or requested to provide information in violation of this subdivision may respond as if the arrest, criminal accusation, or disposition of such arrest or criminal accusation did not occur. The provisions of this subdivision shall not apply to the licensing activities of governmental bodies in relation to the regulation of game, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal

# What else should applicants know about the initial application?

- Most applications require applicants to explain what happened in their cases
  - The agency will ***use this statement to either help or hurt*** the applicant's eligibility moving forward
  - Consulting an attorney early in the application process can help people avoid making statements they later regret
- Licensing agency staff will ***not*** provide copies of documents to the applicant or their attorney (if they have one)
  - Applicants ***must keep copies of everything they provide*** to the agency

“I thought my biggest issue was studying for the exam. I thought all of this [the moral character process] would be before my exam. I thought I was good to go. When I got this investigation after my exam, I couldn’t believe it.”

- LAC client who ultimately received her license

# The “Moral Character Investigation”

- The length and specifics of this process will differ from person to person and agency to agency
  - May involve an interview by an investigator
  - Investigators may ask for more supporting documents about the conviction
  - Applicants can and should submit personal statements, reference letters, and other “evidence of rehabilitation”
  - No specified time frames for these investigations
  - Check the Licensing Guides for information about the specific license you want
- If an applicant has an open case, agencies often will not move forward on the investigation until the case is resolved

# What should applicants do when contacted by an agency investigator?

- Don't panic
- Contact the Legal Action Center or another legal service provider
  - Consulting a lawyer early in the process can be crucial to success
- Collect any documents the investigator requests for initial evaluation (see next slide)
- Send personal statement, reference letters, and any other evidence of rehabilitation
  - We will cover these later, but this packet can make or break the application

# Documents applicants may be required to provide during an investigation

- Accusatory Instrument (court document also known as a "Complaint" or "Information")
- Letter from probation or parole officer
- Pre-sentence investigation report (court document created for sentencing)
- Sentencing and/or plea “minutes” (also known as a transcript)
- Notarized statement indicating that the applicant had no other arrests or convictions in any other city, state, or nation other than what was reported

**APPLICANTS: PLEASE KEEP COPIES FOR YOUR RECORDS!!!!!!**

# What is “Evidence of Rehabilitation” (EoR)?

- Personal statement
- Reference letters from supervisors, professors, service providers, colleagues, or personal contacts
- Certificates of Relief or Good Conduct
- Proof of education/certifications (i.e., diploma, transcript, certificate)
- Proof of jobs, internships, or volunteer work (i.e., resume, letter of reference)
- Proof of treatment programs (i.e., drug treatment, anger management) ... this is sensitive information, so consider carefully before sharing



# What are personal statements?

- Opportunity to tell the reader about positive changes made since the time of an offense
- Describe experiences – jobs, education, programming, volunteer work (i.e., summarize EoR)
- Consult LAC's outline that guides the crafting of a personal statement



## Crafting an Effective Personal Statement

### Introduction

**How can you convince an employer, landlord, government agency, or other decisionmaker to give you a fair chance when you have a criminal record?**

One of the most powerful strategies is to provide “evidence of rehabilitation,” which means information about any positive changes you have made since your conviction(s). Evidence of rehabilitation can include school transcripts, certificates from job training, proof of employment, letters of recommendation, Certificates of Relief or Good Conduct, and personal statements.

Personal statements are letters in which you accept responsibility for your conviction(s) and, more importantly, tell the reader about the positive changes you have made since the time of your conviction(s). They are your opportunity to show that there is more to you and your life than what is on your RAP sheet. In this outline, we will demonstrate how to write an effective and strategic personal statement that you can submit to employers, government agencies, landlords, and for any applications where your criminal record could prevent you from getting a fair chance.<sup>1</sup>

This outline will also help you address the eight factors (listed below) that most employers in New York State are required to consider when deciding whether to employ someone with a criminal record.<sup>2</sup> Many government licensing agencies in New York State are also required to consider these factors when deciding whether to grant an employment license.<sup>3</sup>

# Crafting a personal statement

- ▶ Elijah is applying for his license as an LPN. In 2015 and 2019, he was convicted for driving while intoxicated (DWI), one misdemeanor and one felony. Elijah graduated nursing school and has decided to work on his personal statement early.
- ▶ Help Elijah decide what to include in his personal statement and how to phrase it. **Tip:** Think about the "qualities" associated with these conviction(s) and with the license he seeks to hold.

# Should Elijah include the following information?

- ▶ Express remorse for the events that led to his conviction
  - ▶ Yes. It is a good idea to take responsibility for the conviction, while not “relitigating” it
  - ▶ Elijah should keep in mind that the focus of the statement is about positive change since the time of the offense

# Should Elijah include the following information?

- ▶ Explain that he was arrested and charged with grand larceny *and* driving under the influence, but that his conviction was only for driving under the influence?
- ▶ No. Elijah only needs to address the actual conviction. Don't provide the agency with extra information about the original charges! Agencies **cannot** deny licenses based on arrest charges, only based on convictions

# Should Elijah include the following information?

- ▶ That he completed clinical rotations
  - ▶ Yes. Elijah should highlight anything related to the responsibilities of the license he is applying for
  - ▶ Give specific examples that highlight not only skills and experiences but also combat the negative inference of his convictions. E.g., trustworthiness, good decision making, patient care

# Should Elijah include the following information?

- ▶ Explanation that he has had multiple jobs since his conviction, including working at a dentist's office as a receptionist
  - ▶ Yes. Elijah should highlight anything related to the responsibilities of the license he is applying for or that show independence, taking responsibility, successful job completion, etc.
  - ▶ Be aware that agencies may ask how each job or internship ended. Be truthful if asked.

# Should Elijah include the following information?

- ▶ The licensing process is taking Elijah longer than he thought it would. Should he include that he is struggling to pay student loans and his loan status is now delinquent
  - ▶ No. While it is information that adds to Elijah's need for a license and employment, it is not information that a licensing agency needs to know or likely find persuasive

# Should Elijah include the following information?

- ▶ His records from therapy addressing his use of alcohol
  - ▶ Probably not – Elijah's records would contain personal information that the agency doesn't need, and that Elijah probably doesn't want them to have
  - ▶ However, since his convictions are alcohol-related, Elijah could ask his therapist to write a letter summarizing his treatment and progress since 2019. Discuss with an attorney prior to submitting



# How might Elijah phrase the following information?

- ▶ I am writing this letter because I seek forgiveness for my past actions and would like to be granted a Nurse Practitioner License
  - ▶ Areas for Revision: not asking this agency for forgiveness. Consider briefly stating why he wants the license
  - ▶ Instead: It is with profound hope that I submit my application to become a licensed nurse practitioner. I am passionate about caring for others and guiding them through health decisions, big and small. As of this date, I have completed all the necessary licensing requirements.

# How might Elijah phrase the following information?

- ▶ I wanted to fight the charges but pled guilty to take care of the case as fast as possible without jail time. What happened, happened
  - ▶ Areas for Revision: avoid saying he pled guilty to get rid of the case. Can seem like he's not taking responsibility or even that he lied to the judge when accepting the plea. Focus on positive life journey since offense
  - ▶ Instead: I pled guilty to a DWI to take responsibility for my actions. Since then, I have surrounded myself with positive influences and invested in things that motivate me, so that I can make safe and responsible decisions. For example...

# How might Elijah phrase the following information?

- ▶ It is with great shame that I face judgment of my moral character as a result of my convictions in 2015 and 2019 of the crime of driving drunk
  - ▶ Areas for Revision: deemphasize language about being judged and delete “crime” language. Emphasize length of time that has passed (especially if events leading to conviction were earlier in time than the conviction date)
  - ▶ Instead: I live with deep regret for my actions # years ago and have worked to become a more responsible person and member of my community

# How might Elijah phrase the following information?

- ▶ I hope that you will see past my convictions.
  - ▶ Areas for Revision: show the agency why they should look beyond the convictions by illustrating the positive journey since the offense
  - ▶ Instead: Since that time, I have made positive decisions and focused on becoming a better member of my community by entering treatment, volunteering, and going back to school. I want to be able to use the skills that I have learned to care for others, provide for myself and family, and contribute to society

# Reference Letters

- The best reference letters show that the applicant successfully had jobs or responsibilities like what they'll have when licensed ... and that they were a great employee, student, intern, etc.
- References with the same or similar license are extremely persuasive, e.g, professors, supervisors
- Letter writers can use LAC's resource as a guide to make them as effective as possible



## **Crafting an Effective Letter of Reference for an Individual with a Conviction Record**

When an individual with a conviction record is applying for a job, license, clearance to work, record sealing, or certificate of rehabilitation, they are often asked to present “evidence of rehabilitation.” This means documentation – like reference letters – highlighting positive change in a candidate’s life since their arrest or conviction. The goal is to show the decisionmaker that the candidate has many strengths, that their conviction record does not define them, and that the conviction(s) should not be a barrier to them obtaining the job, license, clearance, record sealing, or certificate.

This template can be used by someone writing a reference (e.g., employer, teacher, internship/volunteer supervisor, etc.) to describe their experience with the candidate in a way that addresses concerns that others may have about the candidate’s conviction(s). The template provides an outline for writing your letter, with suggestions of what to emphasize and how to do so.


The purpose of the letter is to:

- Explain how you know the candidate;
- Convey that the candidate has had a job, or had volunteer, educational, or other experiences where

# Reference Letters

- In the best reference letters, the writer says they are ***aware of the conviction, and still recommend applicant for licensure***
  - Investigators may call references and ask whether they are familiar with applicant's conviction
  - References ***should not downplay conviction***, e.g., "I don't know why the Board cares about this conviction. Many people have issues with alcohol." or provide more information than you've given the investigator, e.g., "Elijah struggled with alcohol after being abused."
- Applicants can help references write letters, e.g., by giving a supervisor specific examples where they helped clients or patients

# Certificates of Rehabilitation and Good Conduct

CERTIFICATES OF RELIEF FROM DISABILITIES & CERTIFICATES OF GOOD CONDUCT			
These certificates help New Yorkers with criminal records reduce barriers to employment, licenses, housing, and serving on a jury.		 <b>LEGAL ACTION CENTER</b> <a href="http://www.lac.org">www.lac.org</a> <b>(212) 243-1313</b>	
	Who is Eligible?	When to Apply?	How to Apply?
<b>Certificate of Relief from Disabilities ("CRD")</b>	People with <b>any number of misdemeanors</b> and a <b>maximum of one felony*</b>	Apply <b>any time after your last conviction</b> , including at your sentencing	<p><i>If the conviction was in NY and you were not sentenced to state prison</i> → Apply to the court where you were sentenced. You must apply for a <b>separate CRD for each conviction.**</b></p>
			<p><i>If you served time in a NY state prison on your felony or have out-of-state or federal conviction(s)</i> → Apply to DOCCS***</p>
<b>Certificate of Good Conduct ("CGC")</b>	People with <b>two or more felony convictions on separate dates</b> plus any number of misdemeanors***	<p>Apply <b>after a waiting period</b> based on your most serious conviction:            Class A or B felonies - 5 years            Class C, D, or E felonies – 3 years            Misdemeanors - 1 year</p> <p>The waiting period starts when you were last released from incarceration OR at the time of your last criminal conviction if you were not incarcerated on that case.</p>	<p>After the required waiting period, apply to DOCCS</p> <p>You only need to apply for one CGC. <b>Unlike the CRD, a CGC applies to all your convictions.</b></p>

- Certificates are evidence of rehabilitation
- May be required for some licenses (e.g., security guard when you have certain convictions)
- Does NOT guarantee licensure
- Visit LAC's resources, call, or attend another training for information about certificates

# Example: NYSED investigations

- Applicants will be interviewed by an investigator. Applicants may have a lawyer present at this interview
- Applicants should prepare to be asked about each conviction on their record
  - **Answer each question directly**
  - **Take responsibility and explain without making excuses**
  - **Then pivot to how applicants has changed/what they have learned**
- Investigators don't always ask questions about positive change or good conduct  
Candidates should practice inserting achievements into answers
- After the interview, investigators submit a report based on the interview, the application, and any materials the applicant provided to an agency prosecutor.



# Elijah's interview

- Investigator: Elijah, please tell me about your 2019 conviction for a felony DWI.
- Elijah: In 2019, I went to a friend's birthday party, had too much to drink, and made the poor decision to drive home drunk. At the time, I wasn't taking my life choices very seriously and prioritized having fun without thinking about consequences. It was my second DWI in 10 years, so I got a felony conviction. It was an awful experience. I understand how my actions could have harmed me and others. I could have really hurt someone. But since then, I changed my life to prioritize helping people, not harming them. That was part of my motivation to become a nurse – to help people – and I have been extremely successful in my two internships and clinical rotations, as you can read in my letters of reference and my resume.

# Licensing Hearings: True or False

- Everyone applicant with a conviction record will have a hearing
  - **False.** The moral character investigation does not always result in a hearing, you may get licensed without one
- Applicants denied a license after the moral character investigation will automatically get a hearing
  - **False.** Applicants get a letter stating they ***may request*** a hearing. Applicants must follow the instructions to make the request
- You may be represented by a lawyer at a hearing and bring witnesses
  - **True!**

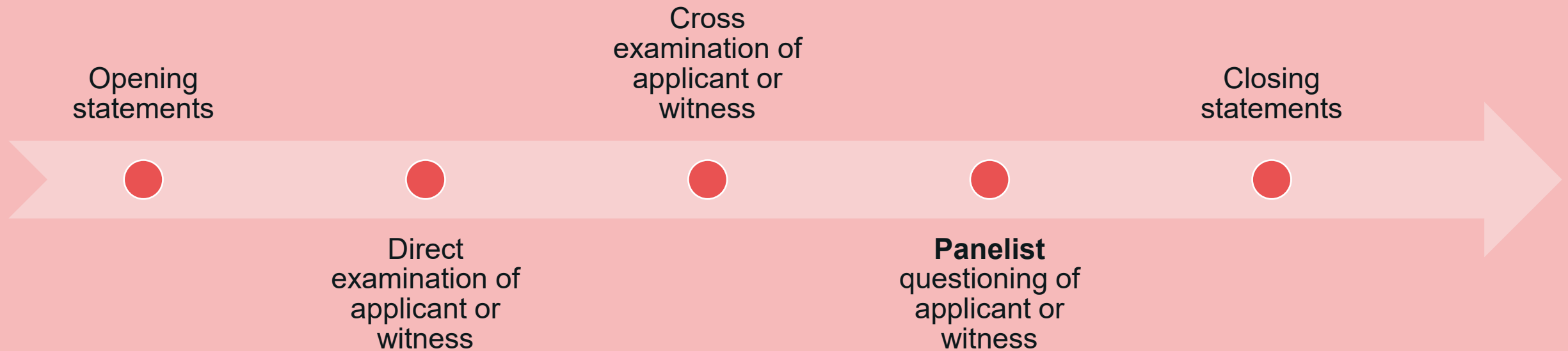
# Licensing Hearings: True or False

- Applicants have to participate in their hearing
  - **True.** The agency prosecutor and other representatives of the agency get to question the applicant. An applicant's lawyer can also ask questions
  - Applicants without an attorney can make an opening statement (we suggest reading your personal statement aloud)
- The hearing is decided by peers or practitioners in the field
  - It depends. In some agencies, like NYSED, peers in the relevant field often serve as decisionmakers. In other agencies, like the Department of State, cases are heard by a judge and prosecutor who works for the agency.
- Applicants should be informed of the agency's decisions in writing
  - **True**

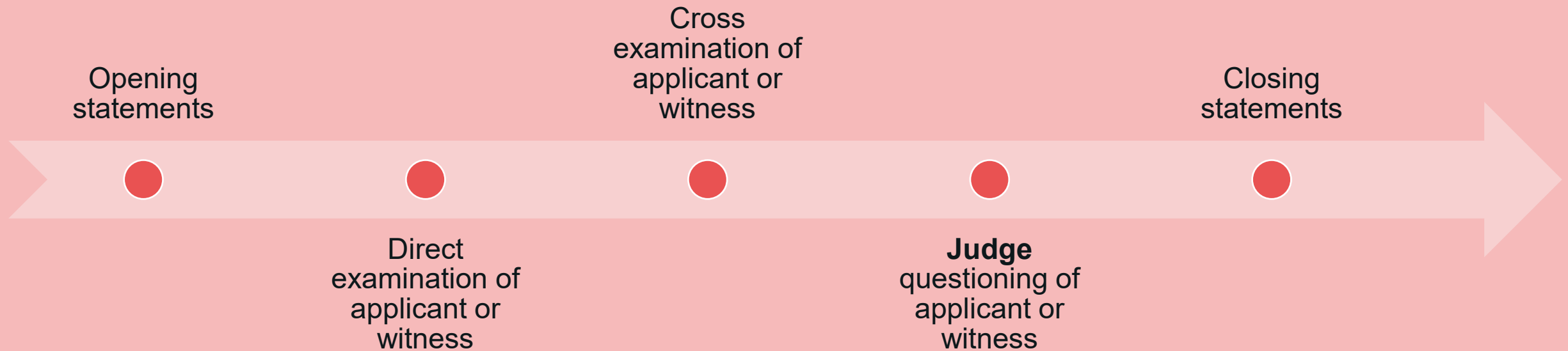
# Licensing Hearings: True or False

- If you are denied a license after the hearing, that is the end of the road
  - **False.** You may file an Article 78 appeal (lawsuit that challenges a final decision made by an NYS, NYC, or other local administrative agency)
  - Must be filed in court within **four** months of the final decision
  - It is better to have a lawyer, but applicants can file the appeal on their own
  - Some licenses may have a step between the hearing and filing an Article 78
- The moral character investigation, hearing process, and decision process are the same for every license
  - **False.** Applicants should read all letters from the agency for directions on what to expect. They can consult the guide or call LAC with questions about specific cases

# Hearing Process at NYSED



# Hearing Process at Dept. of State



# Who should an applicant ask to be a witness?

- **Professional contacts**

- Current or former supervisor is ideal
- Someone licensed in your field or by the same agency

- **Someone who knows about the conviction**

- Witnesses will be asked about the conviction during the hearing
- The strongest witnesses can explain why the applicant is facing this character process and why they still highly recommend them

# Who should an applicant ask to be a witness?

- **Someone with *specific* examples of your interactions with the population they will serve**
  - E.g., a supervisor can share positive observations about how applicant helped a patient, customer, or client
- **If the witness is a lay person (e.g., a neighbor or friend)**
  - Ask them to share examples where they directly observed applicant helping them or another person



# Are there any laws that protect applicants in the moral character determination?

- ▶ Yes, *23-A of the New York Correction Law*
  - ▶ An application for a license or employment cannot be denied based upon a criminal offense, unless:
    1. There is a direct relationship between one or more of the previous convictions and the specific license sought; or
    2. The issuance or continuation of the license would create an unreasonable risk to property or to the safety or welfare of specific individuals or the general public
- ▶ This law also applies to employment discrimination

# What factors do agencies have to consider before denying a license?

1. The New York State policy to encourage the licensure of people with convictions;
2. The specific responsibilities related to the license;
3. Any effect the conviction(s) has on your ability to complete those responsibilities;
4. The amount of time since the offense occurred;
5. Age when the offense occurred;
6. Seriousness of the convictions;
7. Any **Evidence of Rehabilitation**, including a Certificate of Relief or a Certificate of Good Conduct; and
8. The legitimate interest of the licensing agency in protecting property and the safety and welfare of specific individuals or the general public.

Source: Article 23-A of the New York Correction Law

# Remember...

- ▶ After you are licensed, your conviction record may come up when you are applying for jobs
- ▶ There are laws in New York State and City prohibiting discrimination in employment based on a conviction record
- ▶ LAC has trainings and resources about employment protections – and provides legal assistance!

# Clearance

- Main takeaway: very few instances where a conviction will make clearance impossible
- The process is different and much faster than the licensure agency process
- Applicants can and *should* submit personal statements, letters of reference, and evidence of rehabilitation to the agency
- LAC and other legal providers can assist applicants navigate the process

# Department of Health (DOH) Clearance Process

After applicants complete job training, potential employers submit an electronic background check to DOH. DOH reviews the background check and sends one of these letters to the employer

Type of Letter	What It Means	Outcome
No Hit	You have no open cases or convictions	Clearance Granted
Non-Denial	You have at least one conviction	Clearance Granted
Not Held in Abeyance	You have open charges	DOH takes no position
Held in Abeyance	You have open charges	You cannot provide direct care. DOH will make a final decision when your case finishes
Pending Denial	You have at least one conviction	You have 30 days to submit information to DOH before its final decision

DOH clearance does not guarantee the employer will hire an applicant, but ***applicants have legal protections against discrimination as a job seeker with conviction(s)***

For New Yorkers facing legal barriers due to arrest or conviction records, substance use/substance use disorder, or HIV or AIDS status

### Arrest or Conviction Records

- New York State and FBI RAP sheets: getting free copies and correcting mistakes
- Denial or termination of employment and employment licenses
- Denial of New York City Housing Authority (NYCHA) and other publicly funded housing
- Certificates of Relief from Disabilities or Good Conduct
- Voting, higher education, and guardianship rights
- Sealing criminal cases under New York's sealing laws
- Collecting "evidence of rehabilitation"

### Substance Use / Substance Use Disorder

- Discrimination in employment, housing, health care, schools, and more
- Recreational and medical cannabis rights under New York State laws
- Privacy rights
- Health insurance coverage for substance use disorder care
- The right to be on methadone, buprenorphine, or naltrexone in the criminal legal or child welfare systems, workplaces, recovery homes, nursing homes, and more
- Emergency room care for substance use disorders

### HIV and AIDS

- Discrimination in employment, housing, health care, schools, and more
- Privacy and testing rights
- Living wills, health care proxies, and standby guardianships
- Family support services

Individuals and service providers can reach us by calling **(212) 243-1313**.  
You can also visit us at [www.lac.org](http://www.lac.org).

# Living with HIV and interested in employment?

## Benefits Counseling Pilot Project

- Provides individual counseling to help you understand the impact of income from employment on your public benefits, housing and health coverage
- Qualified staff understand rules of HASA, SSI and other programs
- Free of charge
- Services available across NYS
- Funded by the NYSDOH AIDS Institute

### **BCPP Brochure and Contact Phone Numbers:**

<https://www.hivtrainingny.org/FAQDocs/BCbrochure101420.pdf>

**Learn more about the BCPP via Webinar:** <https://conta.cc/3cnhNxG>



# Community Health Access to Addiction and Mental Healthcare Project (**CHAMP**)

**CHAMP** can help you:

- **KNOW** your insurance rights
- **FIGHT** insurance denials for mental health and addiction care
- **CHALLENGE** insurance barriers & discrimination
- **GET** the most from your coverage
- **RECEIVE** fair reimbursement
- **LEARN** about options for low-cost care for the uninsured

**AND MUCH MORE!**

So you can access treatment for mental health & substance use disorders, including medication.

***CALL our Helpline  
(888) 614-5400***

***Helpline Hours:  
Monday-Friday  
9 – 4 p.m.***



# Working with the Opioid Response Network

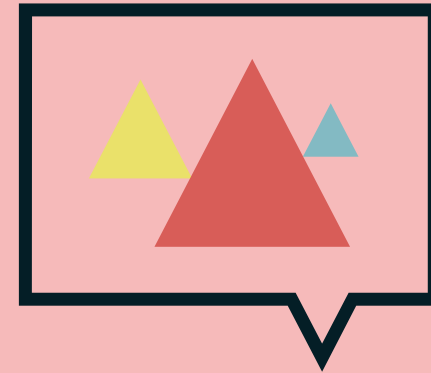


- **Help is here!** The *Opioid Response Network (ORN)* is your resource for no-cost education, training and consultation to enhance efforts addressing opioid and stimulant use disorders.
- *ORN* has consultants in every state and territory to deploy across prevention, treatment, recovery and harm reduction.
- **Share your needs via the “[SUBMIT A REQUEST](#)” form at [OpioidResponseNetwork.org](https://OpioidResponseNetwork.org).** Within one business day, your regional point person will be in touch to learn more.

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# *Thank you!*

**Follow us on social media**



**If you have any  
questions,  
you can contact us at  
212-243-1313.**