

**COMMONWEALTH OF MASSACHUSETTS**  
**Board of Certification of Community Health Workers**

Suitability for Certification

Adopted October 11, 2016

**I. Introduction and Background**

The Board of Certification of Community Health Workers (the Board) is responsible for issuing certificates to community health workers (CHWs) who meet the criteria laid out in the legislation. These criteria are that the applicant is of “good moral character and has met all the education, training and experience requirements and qualifications as established by the board.” This document outlines the criteria the Board will use to establish the “good moral character” of CHWs. The Board is calling this policy *Suitability for Certification* to reflect the fact that the certificate is voluntary and thus CHWs can still practice without receiving a certificate AND the fact that this policy is focused on the ability of the applicant to do the work of CHWs as outline in the legislation and regulations and not an assessment of the moral character the applicant. This assessment will include a criminal record check in order to provide a standard level of vetting for work in a human services field.

The Board recognizes that involvement in the criminal justice system has become a fairly common experience in the United States with an institutional bias that disproportionately affects people of color. Approximately 1 in 3 individuals in the United States are arrested by the age of 23; and for Black men, rate is almost 1 in 2.<sup>i ii iii</sup> Blacks and Hispanics are more likely to be stopped by police, arrested, and severely sentenced for committing the same acts as Whites.<sup>iv</sup> Black men represent 13.3% of the population and yet are 37% of the incarcerated population.<sup>v vi</sup> Similarly, Hispanics are 17.6% of the population and account for 22% of those incarcerated.<sup>vii viii</sup> Involvement in the criminal justice system can have life long consequences for many creating barriers to employment and credentialing.

CHWs are a very important work force and a critical piece of their occupation is the ability to demonstrate shared experience and build trust with the communities they serve. In many ways, having a record and/or experience with the criminal justice system can allow for trusting building with communities disproportionately affected by the criminal justice system as this is a shared experience .

**II. Suitability for Certification**

To assess suitability for certification, the Board will evaluate CHWs in three areas that are relevant to the work of CHWs as human services providers. The 3 areas are:

1. CHW Understanding of the CHW Code of Ethics

2. CHW Understanding of the CHW Standards of Conduct
3. Background Check/CORI

**A. *Code of Ethics***

Practicing in compliance with the Massachusetts Code of Ethics for CHWs is part of the 10 Core Competencies for CHWs (Core Competency #10 Professional Skills and Conduct). The Massachusetts Code of Ethics can be found at <http://machw.org>. The Code of Ethics applies to all practicing CHWs in Massachusetts. It provides an ethical framework for CHWs and acts as a guide to CHWs as they strive for excellence in the field by providing quality service and the most accurate information available to individuals, families, and communities.

The certification application will demonstrate whether the CHW understands and can apply the Code of Ethics to their work. This will be determined by satisfactory ratings on Core Competency #10 - Professional Skills and Conduct given by the references of the applicants who are applying through the experience only pathway. For those applying through the training and experience pathway, this will be demonstrated through successful completion of an approved training program, which teaches the core competencies of CHWs, and the application references.

**B. *Standards of Conduct:***

The Professional Standards of Conduct can be found in 272 CMR 8.00. The Standard of Conduct outlines the boundaries of the CHW relationship with employers, clients and community members. These standards apply to certified CHWs and violation of them can result in loss of certification. The Standards of Conduct are provided to the CHW and are attested to by the community health worker in the application.

**C. *Other Licenses/Certifications***

The Board will also review disciplinary sanctions or non-disciplinary restrictions on an applicant's professional license, registration or certification that is imposed by the issuing jurisdiction or agency either by order or by consent agreement between the jurisdiction or agency and the applicant.

**D. *Background Check/CORI***

A person's criminal convictions will be used to assess suitability for certification. The criminal background check and Criminal Offender Record Information (CORI) is the last piece of the application process. It will only be completed after the applicant meets all other criteria for Certification. In assessing an applicant's criminal history, the Board will consider only:

- convictions of a crime whether by a judge or jury or entering a plea to any crime, entering a plea of *nolo contendere* to any crime, or by entering any other plea

- treated by a court as a guilty plea except for juvenile offenses and sealed records, and
- open cases.

The Board will not see or consider arrests with no adverse outcome, juvenile offenses, or sealed items. All findings will be evaluated on a case-by-case basis. There will be no blanket exclusions. A person's criminal convictions will not be viewed as a proxy for untrustworthiness or immorality nor will it be considered a sign of character deficiencies.

The following information will not be used in consideration of an application for a certificate (regardless of whether the record was incurred in Massachusetts or elsewhere)<sup>ix</sup>:

- records of arrest if there is no conviction of a crime based on the arrest,
- convictions or other cases which have been sealed, annulled, expunged, or pardoned,
- cases that have been dismissed, ended in not guilty finding by judge or jury, or ended in nolle prosequi,
- juvenile adjudications,
- misdemeanor convictions for which no jail sentence can be imposed,
- misdemeanor convictions older than five years, excluding any period of incarceration or custody, and
- convictions of a summary offense.

If an applicant has worked as a CHW for at least two years preceding his or her application for certification, the Board shall presume that the applicant is suitable for certification as a CHW. That presumption may be rebutted only with clear evidence to the contrary, based upon the considerations listed in this document. Applicants must submit documentation from the employer(s) that verifies their two years of employment, the type of employment (volunteer or paid) and whether this employment is part or full-time. The employer must state that the applicant is currently employed and is in good standing with the position.

All convictions and open cases are to be evaluated on a case-by-case basis and assessed for whether the offense(s) affects skills, duties and responsibilities of CHWs<sup>x</sup>. In conducting an evaluation of the criminal record of an applicant, the Board will consider the following:

- nature and seriousness of the crime,
- circumstances under which the crime occurred,
- length of time since the offense was committed,
- age of the applicant when the crime was committed,
- whether the crime was an isolated or repeated incident,
- whether offense involved violence, abuse, or exploitation of any person,
- whether the victim was a minor or person over 65 years of age, person of diminished mental or physical capacity, and/or a person with a disability,

- other relevant criminal convictions that are not sealed and which have a nexus to the job duties.

The Board will consider the following as mitigating circumstances to the conviction(s) or open case:

- social conditions and/or extenuating circumstances which may have contributed to the crime,
- any evidence of rehabilitation efforts such as education and training, addiction treatment, community contributions and/or volunteer work,
- actions since offense and how those actions are consistent with a position of public trust,
- evidence of work history including but not limited to past successful work as a community health worker- which will be weighted heavily, and
- employment and/or character references.

### ***E. Review Process***

Once an applicant is determined eligible for certification, an application will be submitted for CORI by Board staff. If a criminal offense is deemed potentially disqualifying, a notice will be sent to the applicant requesting additional information on the offense. The applicant also will have the opportunity to submit supporting documentation such as any evidence of rehabilitation, mitigating circumstances, letters of references, and/or evidence of any of the following: education, training, work history, activities since the offense, and circumstances under which the offense occurred to Board staff in preparation for Board review.

The Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21(a)(1) & (5) to investigate charges of criminal misconduct of an applicant. An applicant has the following rights at this session:

1. to be present at such executive session during deliberations which involve that individual;
2. to have counsel or a representative of his or her own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
3. to speak on his or her own behalf;
4. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense; and
5. if applicant so chooses, to request the session be open to the public.

If a conviction of a crime or open case is used as a basis for denial, revocation or delay of certification of an applicant, the applicant will be notified in writing of the Board's

decision and the basis for this decision. The Board will inform the applicant of the right to appeal this decision and the earliest date when the applicant may reapply for CHW certificate if a new applicant.

The Board is committed to reducing barriers to employment for CHWs and will consider suitability for certification on a case-by-case basis with the foundation of shared understandings as listed above. This process can and will be reasonably tailored to the unique workforce of CHWs in order to responsibly provide sustainable opportunities within the profession.

The Board shall collect data and track the total number of applications for a CHW certification and the number of applicants who answer yes to the criminal history question, as well as the following:

1. The number of applicants with a criminal record whose applications are reviewed by the Board;
2. The number of applicants with a criminal record who provided evidence of mitigation and rehabilitation;
3. The final disposition and demographic information of the applicants described in subsections 1 – 3, as available.

The Board shall periodically review this information to monitor progress toward the Board's goal of not unnecessarily and unfairly barring applicants from obtaining a CHW certification because of a criminal record.

All Board members reviewing criminal history information will be trained to understand the criminal record information.

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<sup>i</sup> U.S. Dept. of Justice, Bureau of Justice Statistics. (2014). *Survey of State Criminal History Information Systems, 2012*. Washington, D.C.

<sup>ii</sup> National Employment Law Project (2016). *Research Supports Fair-Chance Policies*. New York, NY. Retrieved from: <http://www.nelp.org/content/uploads/Fair-Chance-Ban-the-Box-Research.pdf>.

<sup>iii</sup> Brame, R. et al. (2014). Demographic Patterns of Cumulative Arrest Prevalence by Ages 18 and 23. *Crime & Delinquency*, 60 (3), 471-486. doi: 10.1177/0011128713514801.

<sup>iv</sup> Miller, T. et al. (2016). Perils of police action: a cautionary tale from US data sets. *Injury Prevention*, xx(x), xx – xx. doi: 10.1136/injuryprev-2016-042023.

<sup>v</sup> Carson, A.E. et al. (2014). *Prisoners in 2013* (NCJ 247282). The Bureau of Justice Statistics, U.S. Department of Justice. Retrieved from Bureau of Justice Statistics website: <http://www.bjs.gov/content/pub/pdf/p13.pdf>.

<sup>vi</sup> United States Census Bureau (2015). *Quick Facts United States*. Retrieved from <https://www.census.gov/quickfacts/table/PST045215/00> . on October 4, 2016.

<sup>vii</sup> Carson (2014).

<sup>viii</sup> US Census Bureau (2015).

<sup>ix</sup> In fact, it is often unlawful for an employer to ask about an applicant's criminal history that did not end in a conviction. See Massachusetts Commission Against Discrimination, *Employment Discrimination on the Basis of Criminal Record*. Retrieved from <http://www.mass.gov/mcad/resources/employers-businesses/emp-fact-sheet-discrim-criminal-record-gen.html> on June 29, 2016.

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<sup>x</sup> Developed using the Equal Employment Opportunity Commission's guidance document. See: Equal Employment Opportunity Commission (2012). *Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*. Retrieved from [https://www.eeoc.gov/laws/guidance/upload/arrest\\_conviction.pdf](https://www.eeoc.gov/laws/guidance/upload/arrest_conviction.pdf) on June 29, 2016.