Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DIVISION OF STATE POLICE

5500 Bail Enforcement Agents

Statutory Authority: 24 Delaware Code, Section 5504(a) (24 **Del.C.** §5504(a))
24 **DE Admin. Code** 5500

FINAL

ORDER

5500 Bail Enforcement Agents

Pursuant to the Guidelines in 29 **Del.C.** §10118(a)(1)-(7), the Board of Examiners of Bail Enforcement Agents ("Board") hereby issues this Order. Following notice and a public hearing on the proposed adoption of amendments to:

- Rule 3.0 - Use of Animals
- Rule 8.0 – Apprehension Procedures
- Rule 9.0 – Notification of Arrest (deletion)
- Rule 9.0 – Electronic Control Device (ECD) (adoption)
- Rule 10.0 – Suspensions and Revocations
- Rule 12.0 – Prohibited Acts

the Board makes the following Findings and Conclusions:

Summary of Evidence and Information Submitted

1. The Board did not receive written evidence or information pertaining to the proposed adoption.
2. The Board expressed its desire to adopt the amendment to Rules 3.0, 8.0, 10.0 and 12.0 in order to clean up the verbiage and remain consistent with wording throughout the Rules & Regs. The Board expressed its desire to adopt the amendment to delete (existing) Rule 9.0 in its entirety in accordance with Governor Markell's Directive to remove redundant rules. The Board expressed its desire to adopt the amendment to create a (new) Rule 9.0 allowing BEA's to carry these devices and mandates the training and instructors.

Findings of Fact

3. The public was given notice and the opportunity to provide the Board with comments, in writing and by oral testimony, on proposed amendments. The written comments and oral testimony received are described in paragraph 1.
4. The Board finds that the adoption of Rules 3.0, 8.0, 10.0 and 12.0 will clean up the verbiage and remain consistent with wording throughout the Rules & Regs. The Board finds that the deletion of (existing) Rule 9.0 will delete this rule in its entirety in accordance with Governor Markell's Directive to remove redundant rules. The Board finds that the adoption of (new) Rule 9.0 will create a rule allowing BEA's to carry these devices and mandates the training and instructors.
5. The Board finds that these adoptions will have no adverse impact on the public.
6. The Board finds that the amendments are well written and describe the intent to adopt Rules 3.0, 8.0, 10.0 and 12.0 to clean up the verbiage and remain consistent with wording throughout the Rules & Regs. The Board finds that the amendment for (existing) Rule 9.0 is well written and describes its intent to adopt the rule to delete this rule in its entirety in accordance with Governor Markell's Directive to remove redundant rules.The Board finds that the amendment for (new) Rule 9.0 is well written and describes its intent to adopt the rule to create a rule allowing BEA's to carry these devices and mandates the training and instructors.

Conclusion

7. The proposed rule adoption was published by the Board in accord with the statutory duties and authority as set forth in 24 **Del.C.** §5503 et seq. and, in particular, 24 **Del.C.** §5503(d)(2).
8. The Board deems this adoption necessary and expedient to the full and official performance of its duties under 24 **Del.C.** §5503 et. seq.
9. The Board concludes that the adoption of this rule will be in the best interests of the citizens of the State of Delaware.
10. The Board therefore adopts the amendment pursuant to 24 **Del.C.** §5503(d)(2) and guidelines of 29 **Del.C.** §10118 of the Administrative Procedures Act. See, Strauss v. Silverman, Del. Supr., 399 A.2d 192 (1979).
11. This adopted rule replaces in its entirety any former rule or regulation heretofore promulgated by the Board.
12. The effective date of this Order shall be January 11, 2015.

13. Attached hereto and incorporated herein this order are the amended rules marked as exhibit A and executed simultaneously on the 25th day of November 2014.

Major Melissa A. Zebley, Chairman	Director John Yeomans (absent)
Rebecca L. Byrd, Esquire	Mrs. Jennifer A. Esposito
Mr. R. Dale Hamilton (absent)	Mr. Jack McGhee, II
Mr. Kevin C. Jones	Ms. Robin David

5500 Bail Enforcement Agents

1.0 Licensing

1.1 A bail enforcement agent ID card, license and badge shall not be issued if the applicant has not complied with the provisions set forth in 24 **Del.C.** Ch. 55 and the regulations set forth herein. Moreover, no license shall be issued if charges are pending under 24 **Del.C.** §5507.

1.2 The individual bail enforcement agent applying for an ID card, license and badge under 24 **Del.C.** Ch. 55 must also meet the following qualifications:

1.2.1 Must complete the training qualifications set forth in Section 6.0; and

1.2.2 If carrying a weapon, must meet and maintain the qualifications set forth in Sections 4.0 and 5.0.

1.3 The individual bail enforcement agent applying for licensure under 24 **Del.C.** Ch. 55 must submit the following for approval:

1.3.1 A fee of $75 for a four (4) year ID card license and badge; and

1.3.2 Any and all applications required by the Professional Licensing Section.

1.4 The ID cards and badges are the property of the Delaware State Police.

1.5 There shall be no reciprocity with any other state regarding the issuing of an ID card, license and badge to a bail enforcement agent.

1.6 A fee of $50 shall be for the re-application of the ID card, license and badge, which shall be valid for another four (4) years.

1.7 Any person wishing to be licensed as a bail enforcement agent must show proof of current and valid sponsorship from a licensed bail enforcement agent that has been licensed, through 24 **Del.C.** Ch. 55, for at least five (5) consecutive years.

2.0 Badges, Patches, Advertisements

2.1 No individual licensed under Title 24 Chapter 55 shall use any type of uniform or other clothing items displaying logos, badges, patches, or any other type of writing without first being approved by the Board of Examiners. Under no circumstances shall any item contain the seal or crest of the State of Delaware, any state of the United States, the seal or crest of any county or local sub division, or any facsimile of the aforementioned seals or crests.

2.1.1 All bail enforcement agents shall display their badge at all times during the lawful performance of their duties pursuant to 24 **Del.C.** Ch. 55 and the regulations set forth herein.

2.2 All advertisements, including vehicle markings, or other forms of publication, subsequent to their use, are subject to review by the Board of Examiners for potential misrepresentation. If the Board of Examiners does not approve the advertisement or publication, the concerns shall be forwarded to the licensee. Failure to correct the advertisement or publication shall be considered a violation of these Rules & Regulations.

2.3 The use of auxiliary lights or sirens on vehicles is prohibited.

3.0 Use of Animals

The use of animals is prohibited in the performance of any ~~bail enforcement agent~~ BEA activity.

4.0 Firearms Policy

4.1 No person shall carry a firearm under this chapter unless the individual first completed and passed an approved 40-hour firearm course, instructed by a certified firearm instructor, recognized by the Professional Licensing Section. The initial qualification shoot may be used to fulfill one day and one low light requirement during the first year.

4.2 All persons licensed to carry a firearm under this chapter must be re-certified yearly, by an instructor as described in Section 4.1, by shooting a minimum of three (3) qualifying shoots a year. The shoots must be scheduled on at least two (2) separate days, with a minimum 90 days between scheduled shoots. Of the three (3) shoots, there shall be one mandatory "low light" shoot. Simulation is permitted and it may be combined with a daylight shoot. The minimum passing score is 80%.

4.2.1 All renewal shoot sheets must be submitted by January 31st of each year for the previous calendar year.

4.2.2 Any person not meeting the minimum qualifications set forth in 4.2 may have their firearms certification suspended until such time that they meet the minimum three (3) qualifying shoots within the calendar year.

4.3 The only approved firearms that may be carried shall be either a revolver or semi-automatic handgun and be maintained to factory specifications. Only the handguns with the following calibers are permitted:

4.3.1 9mm

4.3.2 .357

4.3.3 .38

4.3.4 .40

4.3.5 .45

4.4 All ammunition will be factory fresh (no re-loads).

4.5 All persons must carry the same firearm that they qualify with (this will be noted by the serial number of each firearm on the shoot sheets).

4.6 All persons must undergo a drug screening for certification and re-certification. The screening results shall be submitted with the firearms certification/re-certification forms to the Professional Licensing Section. A copy of any drugs prescribed by a medical doctor shall be provided, if necessary.

5.0 Nightstick, Pr24, Mace, Peppergas, Chemical Spray, and Handcuffs

To carry the above weapons/items, a bail enforcement agent must have completed training, by a Professional Licensing Section approved instructor on each and every weapon/item carried. Proof of training, and any renewal training, must be provided to the Professional Licensing Section. Under no circumstances would a person be permitted to carry any other type weapon/item, unless first approved by the Professional Licensing Section.

6.0 Training Requirements For Issuance of a License

6.1 All individuals applying for licensure under 24 **Del.C.** Ch. 55 must complete training in the following prior to the issuance of a license:

6.1.1 Courses in Constitution/Bill of Rights, Laws of Arrest, Laws of Search & Seizure of Persons Wanted, Police Jurisdiction, Use of Deadly Force, and the Rules & Regulations of Bail Enforcement Agents; and

6.1.2 Mandatory training in the field by a bail enforcement instructor approved by the Board.

6.1.3 A bail enforcement agent shall go through a minimum one year internship with an approved licensed bail enforcement agent.

7.0 Continuing Education and Training

Continuing education/training shall be 32 hours every four (4) years with the breakdown being eight (8) hours per year, which must include at least two (2) hours each year in training on the use of deadly force. Failure to have the eight hours of training every year shall be grounds for suspension or revocation of a current license or rejection of a renewal application. Any licensed Bail Enforcement Agent (BEA) not obtaining the continuing education for a given year by the last class offered shall be placed on emergency suspension immediately. Once the continuing education class has been taken for the following year, Professional Licensing may administratively re-instate the BEA.

17 DE Reg. 652 (12/01/13)

8.0 Apprehension Procedures

8.1 All ~~bail enforcement agents~~ BEA's licensed under 24 **Del.C.** Ch. 55 are required to notify the police emergency 911 dispatch center for the appropriate jurisdiction prior to making any attempt at an apprehension. This notification must occur prior to responding to the address of the attempt.

8.1.1 Notification shall be made to one of the following 911 dispatch centers as appropriate; Recom - DSP, New Castle County PD, Newark PD, Wilmington PD, University of Delaware PD, Kent-com - DSP, Smyrna PD,

Dover PD, Milford PD, Suscom - DSP, Seaford PD, Rehoboth Beach PD, Dewey Beach PD, Bethany PD, and South Bethany PD.

8.2 Upon successful apprehension, if the ~~bail enforcement agent~~ BEA transports the subject to the law enforcement agency in the jurisdiction in which the apprehension occurred, transfer of custody to the law enforcement agency shall take place at that time.

8.2.1 A failure of a police agency to accept custody of the fugitive shall be immediately documented by the ~~bail enforcement agent~~ BEA and reported to the ~~Board~~ Professional Licensing Section.

8.3 Failure to follow the procedures as described in this section could result in the suspension or revocation of the ~~bail enforcement agent~~ BEA identification card, license, and badge ~~and ID card~~.

~~9.0 Notification Of Arrest~~

~~Pursuant to 24 **Del.C.** §5511, anyone licensed under this chapter shall, excluding weekends and state holidays, notify the Director within 5 days of any arrest which could result in a misdemeanor or felony conviction. Failure to do so may result in the suspension or revocation of a license.~~

9.0 Electronic Control Device (ECD)

9.1 In order for a BEA to carry/use an electronic control device (ECD), he/she must complete a training program approved by the Board and all certifications or re-certifications must be on file with the Professional Licensing Section.

9.2 ECD Instructors

9.2.1 All ECD instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify individuals licensed under 24 **Del.C.** Ch. 13.

10.0 Suspensions and Revocations

10.1 The Director of the Professional Licensing Section shall have the power to invoke the intent to suspend or revoke any individual~~, licensed~~ issued an identification card, license and badge under Title 24 Chapter 55 that violates the Chapter or the promulgated Rules & Regulations.

10.2 The Director of the Professional Licensing Section may issue an intent to suspend or revoke any individual~~, licensed~~ issued an identification card, license and badge under 24 **Del.C.** Ch. 55, that has been arrested and that arrest could result in the conviction of any misdemeanor or felony that violates the Chapter or the promulgated Rules and Regulations.

10.3 Any ~~person~~ individual whose identification card, license and badge has been suspended, revoked, ~~rejected,~~ or denied shall be granted a full hearing, by the Board at their next quarterly meeting, provided that the violating party requests such a hearing, in writing, to the Director of the Professional Licensing Section within 30 days of the suspension. Such ~~person~~ individual shall be entitled to an appeal of the Board's decision to the Department of Safety and Homeland Security if a written appeal is filed within ten (10) days from the date of the Board's decision.

11.0 Criminal Offenses

11.1 For the purposes of 24 **Del.C.** Ch. 55, the Board may deny an application for a license or suspend or revoke a license if the applicant or licensee has been convicted of a misdemeanor crime involving moral turpitude. A misdemeanor crime involving moral turpitude includes, but is not limited to, the following crimes in the Delaware Code (or similar crimes under the laws of other jurisdictions):

11.1.1 §763 Sexual harassment;

11.1.2 §764 Indecent exposure in the second degree;

11.1.3 §765 Indecent exposure in the first degree;

11.1.4 §766 Incest;

11.1.5 §767 Unlawful sexual contact in the third degree;

11.1.6 §781 Unlawful imprisonment in the second degree;

11.1.7 §840 Shoplifting;

11.1.8 §861 Forgery;

11.1.9 §871 Falsifying Business Records

11.1.10 §881 Bribery

11.1.11 §907 Criminal Impersonation

11.1.12 §1101 Abandonment of a Child;

11.1.13 §1102 Endangering the Welfare of a Child;
11.1.14 §1105 Endangering the Welfare of an Incompetent Person;
11.1.15 §1106 Unlawfully Dealing with a Child;
11.1.16 §1107 Endangering Children;
11.1.17 §1245 Falsely Reporting an Incident;
11.1.18 §1341 Lewdness;
11.1.19 §1342 Prostitution;
11.1.20 §1343 Patronizing a Prostitute; and
11.1.21 §1355 Permitting Prostitution

11.2 Title 16

11.2.1 §1166 Patient Neglect or Abuse

11.3 Title 31

11.3.1 §3913 Abuse/Neglect/Exploitation/Mistreatment of an Infirm Adult.

12.0 Prohibited Acts

No one ~~licensed~~ issued an identification card, license or badge under ~~this chapter~~ 24 **Del.C.** Ch. 55 shall be impaired, by drugs or alcohol, while performing the duties of a ~~bail enforcement agent~~ BEA.

5 DE Reg. 1523 (01/01/02)
7 DE Reg. 1782 (06/01/04)
8 DE Reg. 1316 (03/01/05)
8 DE Reg. 1626 (05/01/05)
15 DE Reg. 1356 (03/01/12)
18 DE Reg. 578 (01/01/15) (Final)