

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 7.0 - Continuing Education and Training, and Rule 11.0 - Criminal Offenses, 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 Rule 7.0 to change the continuing education to add on-line training and clarify how any missed training can be made up. The Board also expressed its desire to adopt the amendment to Rule 11.0, to give the Director the authority to take action when necessary and changes the title names to match the Delaware Code changes.

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 Rule 7.0 will change the continuing education to add on-line training and clarify how any missed training can be made up. The Board also finds that the adoption of Rule 11.0 will give the Director the authority to take action when necessary and changes the title names to match the Delaware Code changes.
5. The Board finds that the adoption will have no adverse impact on the public.
6. The Board finds that the amendment to Rule 7.0 is well written and describes its intent to adopt the rule to change the continuing education to add on-line training and clarify how any missed training can be made up. The Board also finds that the amendment to Rule 11.0 is well written and describes its intent to adopt the rule to give the Director the authority to take action when necessary and changes the title names to match the Delaware Code changes.

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 June 11, 2015.
13. Attached hereto and incorporated herein this order is the amended rule marked as exhibit A and executed simultaneously on the 15th day of May, 2015.

Major Melissa A. Zebley, Chairman
John Yeomans, Director
Rebecca L. Byrd, Esquire (absent)
Ms. Robin David

Mr. R. Dale Hamilton
Mr. Harry O. Jennings
Mr. Kevin C. Jones
Mr. Jack McGhee, II

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 BEA activity.

18 DE Reg. 578 (01/01/15)

4.0 Firearms Policy

- 4.1 No individual licensed under 24 **Del.C.** Ch. 55 shall carry a firearm unless the individual has first passed an approved firearms course of instruction and an initial qualification administered by an approved certified firearms instructor. The course of instruction shall include a minimum 40 hours of training. The Professional Licensing Section may waive the 40 hour training requirement depending upon the applicant's professional credentials, training and/or work experience (i.e. prior law enforcement).
- 4.2 All individuals licensed to carry a firearm must shoot a minimum of three (3) qualifying shoots per calendar year, scheduled on at least two (2) separate days, with a minimum 90 days between scheduled shoots. Of these three (3), there will be one (1) mandatory "low light" shoot and may be combined with a day shoot. Two day shoots may NOT be on the same day. Simulation is permitted. The initial qualification shoot may be used to fulfill one day and one low light requirement during the first year.

- 4.2.1 All renewal shoot sheets must be submitted to the Professional Licensing Section by January 31st of each year for the previous calendar year.
- 4.2.2 An individual not meeting the minimum qualifications set forth in 4.2 may have their firearms license suspended until such time that they meet the minimum three (3) qualifying shoots within the calendar year.
- 4.3 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; or
 - 4.3.5 .45.
- 4.4 All weapons must be either a revolver or semi-automatic and must be double-action or double-action only and must be maintained to factory specifications.
- 4.5 Under no circumstances will anyone be allowed to carry any type of shotgun or rifle or any type of weapon that is not described herein.
- 4.6 All individuals must qualify with the same make/model/caliber of weapon that he/she will carry.
- 4.7 All ammunition will be factory fresh (no re-loads).
- 4.8 The minimum passing score is 80%.
- 4.9 Firearms Instructors
 - 4.9.1 Firearms instructors must be certified by the National Rifle Association, a law enforcement training and standards commission (i.e. C.O.P.T.), and/or another professional firearms training institution as a "certified firearms instructor".
 - 4.9.2 Firearms instructors are restricted to teaching and qualifying individuals according to the type of firearm matching their certification. (For example, a certified handgun instructor may only instruct and qualify individuals with the handgun.)
 - 4.9.3 All firearms instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify individuals issued an ID card, license and badge under 24 **Del.C.** Ch. 55.

18 DE Reg. 318 (10/01/14)

5.0 Baton, Nightstick, Pr24, Chemical Spray, and Handcuffs

- 5.1 To carry the above weapons/items a BEA must have completed a training program on each and every weapon/item carried and all certifications must be on file in the Professional Licensing Section to be valid to carry/use. Under no circumstances would a person be permitted to carry any other type weapon/item, unless first approved by the Professional Licensing Section.
- 5.2 Weapon/Item Instructors
 - 5.2.1 All weapon/item instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify individuals licensed under 24 **Del.C.** Ch. 55.

18 DE Reg. 318 (10/01/14)

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

- 7.1 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 every year.~~ Odd years will be done by completing an on-line modular and test through Delaware Technical Community College (DTCC). Even years will be eight hours of classroom training through DTCC.
- 7.2 All continuing education/training courses must be approved by the Board.

7.3 Failure to ~~have complete~~ the ~~eight hours~~ of training every year shall be grounds for suspension or revocation of a current identification card, license and badge or the 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. Any training missed, or not completed, by a BEA must be completed before the emergency suspension may be administratively lifted. On-line training must be made up on-line and classroom instruction must be made up in person in the classroom. Notwithstanding the foregoing, the Board may consider extenuating circumstances for reinstatement at its discretion.~~

7.4 Any continuing education test must be passed with a minimum score of 75%. Any failed test may be taken again within two weeks of the first test. A second failed test will require the individual to take the training again.

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

8.0 Apprehension Procedures

8.1 All 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 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 BEA and reported to the Professional Licensing Section.

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

18 DE Reg. 578 (01/01/15)

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. 55.

18 DE Reg. 578 (01/01/15)

18 DE Reg. 610 (02/01/15)

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 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 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 individual whose identification card, license and badge has been suspended, revoked, 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 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.

18 DE Reg. 578 (01/01/15)

11.0 Criminal Offenses

11.1 For the purposes of 24 **Del.C.** Ch. 55, the ~~Board~~ Director of the Professional Licensing Section may deny an application, ~~for a license or suspend,~~ or revoke ~~a~~ an identification card, license and badge 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 Title 11 Crimes and Criminal Procedures Ch. 5 Specific Offenses:

- 11.1.1.1 §763 Sexual harassment;
- 11.1.1.2 §764 Indecent exposure in the second degree;
- 11.1.1.3 §765 Indecent exposure in the first degree;
- 11.1.1.4 §766 Incest;
- 11.1.1.5 §767 Unlawful sexual contact in the third degree;
- 11.1.1.6 §781 Unlawful imprisonment in the second degree;
- 11.1.1.7 §840 Shoplifting;
- 11.1.1.8 §861 Forgery;
- 11.1.1.9 §871 Falsifying Business Records
- 11.1.1.10 §881 Bribery
- 11.1.1.11 §907 Criminal Impersonation
- 11.1.1.12 §1101 Abandonment of a Child;
- 11.1.1.13 §1102 Endangering the Welfare of a Child;
- 11.1.1.14 ~~§1105 Endangering the Welfare of an Incompetent Person~~ Crime Against a Vulnerable Adult;
- 11.1.1.15 §1106 Unlawfully Dealing with a Child;
- 11.1.1.16 §1107 Endangering Children;
- 11.1.1.17 §1245 Falsely Reporting an Incident;
- 11.1.1.18 §1341 Lewdness;
- 11.1.1.19 §1342 Prostitution;
- 11.1.1.20 §1343 Patronizing a Prostitute; and
- 11.1.1.21 §1355 Permitting Prostitution

11.1.2 Title 16 Health and Safety Ch. 11 Nursing Facilities and Similar Facilities

- 11.1.2.1 ~~§1166 Patient Neglect or Abuse~~ §1136 Violations.

11.1.3 Title 31 Welfare Ch. 39 Adult Protective Services:

- 11.1.3.1 ~~§3913 Abuse/Neglect/Exploitation/Mistreatment of an Infirm Adult~~ Violations.

12.0 Prohibited Acts

No one issued an identification card, license or badge under 24 **Del.C.** Ch. 55 shall be impaired, by drugs or alcohol, while performing the duties of a 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)

18 DE Reg. 973 (06/01/15) (Final)