

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Elevator Mechanics

Statutory Authority: 24 Delaware Code, Section 6105(a)(1) (24 Del.C. §6105(a)(1))

PROPOSED

PUBLIC NOTICE

6100 Board of Elevator Mechanics

Pursuant to 24 Del.C. §6105(a)(1), the Delaware Board of Elevator Mechanics ("Board") has proposed adoption of rules and regulations to implement its licensing law, Chapter 61 of Title 24 of the Delaware Code. In particular, the proposed rules and regulations set forth the process whereby applicants may be eligible for licensure under the grandfathering provision. Standards for licensure, practice and continuing education are adopted. The Board has also proposed adoption of a list of crimes substantially related to the practice of providing elevator services.

A public hearing will be held on November 21, 2023 at 10:00 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Elevator Mechanics, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at danielle.ridgway@delaware.gov.

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be **December 6, 2023**. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

6100 Board of Elevator Mechanics

1.0 General

- 1.1 Governing statute: Chapter 61 of Title 24 of the Delaware Code governs the Board of Elevator Mechanics and the profession under its purview.
- 1.2 Pursuant to 24 Del.C. §6105(a)(1), the Board is authorized and hereby adopts these rules and regulations.
- 1.3 Pursuant to the Administrative Procedure Act, 29 Del.C. Ch. 101, the Board reserves the right to make amendments, modifications and additions to these rules and regulations.
- 1.4 The Board reserves the right to grant exceptions to the requirements of the rules or regulations upon a showing of good cause by the party requesting an exception, provided that the exception is not inconsistent with the requirements of 24 Del.C. Ch. 61.
- 1.5 Duty to update address. All licensees must provide the Division of Professional Regulation with their current mailing address and email address. Any change in mailing address or email address must be reported to the Division within 10 days of the change. All notifications and correspondence pertaining to a licensee's license that are sent through the mail will be sent only to the most recent address provided by the licensee. The failure to provide the Division with a current mailing address will not operate to excuse any duty or responsibility of the licensee and delivery to the most recent address provided by the licensee will be considered proper notice.

2.0 Definitions

The following words and terms mean the following:

"ASME" means the American Society of Mechanical Engineers.

"Board" means the Delaware Board of Elevator Mechanics.

"CE" means continuing education.

"Elevator" or **"escalator"** means a hoisting and lowering device equipped with a car or platform that moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure; or a power driven, inclined, continuous stairway used for raising or lowering passengers; or a type of passenger carrying device on which passengers stand or walk, and in which the passenger carrying surface remains parallel to its direction of motion and is uninterrupted, and includes elevators, escalators, moving walkways, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts that are not within a dwelling unit and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators), ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts), or ASME A90.1 (Safety

Standards for Belt Manlifts), published by the ASME, 2004 Edition, which are incorporated herein by reference, as amended and supplemented. "Elevator" or "escalator" does not include any conveying devices, process equipment, and mine elevators. Conveying devices include personnel hoists, material hoists, conveyors, and any other device outside of the scope of ASME A17.1, A18.1, or A90.1. "Dwelling unit" is a single unit providing complete, independent living facilities for 1 or more persons living as a single housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation, and also includes outside access dedicated solely to that unit.

"Elevator services" or "elevator work" means to perform, install, maintain, troubleshoot or supervise any, which may include, but is not limited to, the installation, erection, modernization or repair of any elevator, escalator, dumbwaiter, material lift, vertical reciprocity conveyor (VRC) or conveyance. All elevator services or elevator work must be performed in accordance with the standards established in the ASME code and International Building Code (IBC) that have been adopted by the authority having jurisdiction and in any applicable local building code.

"IUEC" means International Union of Elevator Constructors.

"Stairway chairlift" means a lifting device that has a foot rest and seat, which is attached to stairs.

3.0 License required

- 3.1** No individual shall engage in the practice of providing elevator services nor hold oneself out to the public as being qualified to act as a licensed elevator mechanic, or otherwise assume or use any title or description conveying or tending to convey the impression that the individual is qualified to act as a licensed elevator mechanic, unless the individual has been duly licensed under Chapter 61 of Title 24 of the Delaware Code.
- 3.2** Whenever a state license to practice as an elevator mechanic has expired or been suspended or revoked, it shall be unlawful for the individual to act as an elevator mechanic in this State.

4.0 Applications

- 4.1** Applicants shall complete an application approved by the Board. Applications must be in the name of the individual, not a company. An applicant must submit proof of qualifications verified by attestation.
- 4.2** Where applicable, an applicant must provide proof of instruction, training, or apprenticeship in the form of a certified transcript, certificate of completion or any other document acceptable to the Board.
- 4.3** Proof of experience requires a notarized affidavit from the supervising licensed elevator mechanic describing the nature of the experience. If an applicant cannot obtain the required notarized affidavit from the supervising licensed elevator mechanic, the applicant shall submit a letter explaining why the experience affidavit cannot be obtained, and W-2 tax forms showing full time employment may be substituted at the discretion of the Board. The required experience and training must be completed prior to taking the licensure exam.
- 4.4** Applicants relying on military training and experience must submit official documentation from the supervising officials showing the type and approximate hours of work experience. Other official military documentation that reliably verifies military training and experience may be accepted at the discretion of the Board when supervisory officials are not available or cannot be located.
- 4.5** Incomplete applications will be retained for 1 year to allow an applicant the opportunity to supplement the application. After 1 year, incomplete applications are destroyed and, thereafter, an applicant must submit a new application with the appropriate fee.

5.0 Proof of Experience

- 5.1** An applicant applying for licensure based on experience must meet 1 of the following requirements:
 - 5.1.1** Six years' full-time experience under the supervision of a licensed elevator mechanic; or
 - 5.1.2** Eight thousand hours of full-time experience under the supervision of a licensed elevator mechanic, plus 576 hours of related instruction, or other approved training verified by a certificate of completion of apprenticeship from a lawful, registered apprenticeship program of any state; or
 - 5.1.3** Four years' full-time experience under the supervision of a licensed elevator mechanic and 6,000 hours of technical training.

6.0 Examinations

Once all credentials have been verified, a license may be issued by the Division of Professional Regulation upon proof of obtaining a passing score on a Board accepted examination and payment of the applicable fee. The passing score will be determined by the testing agency, except that the passing score may not be less than 70%. The roster of persons qualified for licensure will appear in the minutes. A member of the Board may attend the examination. Examinations must

be monitored by an approved, independent third party.

7.0 Insurance

A licensed elevator mechanic is not required to have general liability insurance if the licensee's employer has general liability insurance for all of its employees in the amount of at least \$300,000. Elevator applicants and licensees agree to work only for an elevator company that maintains a general liability insurance policy for all of its employees in the minimum amount of \$300,000.

8.0 Expiration, Renewal and Inactive Status

- 8.1 The licenses granted by the Board must be renewed by June 30th of each even numbered year, otherwise, they expire as of July 1st. It is the responsibility of the licensee to renew the licensee's license. The Board is not required to notify licensees of expiration dates.
- 8.1.1 As set forth in subsection 9.6, renewal applications will be randomly audited by the Board to ensure their accuracy. Licensees selected for random audit will be notified of that selection within 60 days after the renewal deadline. Licensees must then submit the documentation requested by the date indicated on the audit notice.
- 8.1.2 As a condition of renewal, applicants must attest to completion of continuing education (CE) as required by Section 9.0. Attestation shall be completed electronically. Licensees selected for random audit will be required to supplement their attestations with documentation of CE completion during the biennial period that is the subject of the audit.
- 8.2 A licensee may renew an expired license within 1 year after the renewal deadline by meeting all requirements and paying a late fee set by the Division. All late renewals will be audited for compliance with the CE requirements.
- 8.3 A licensee with an active license may request in writing to be placed on inactive status. Inactive status can be renewed electronically on a biennial basis. Inactive licenses may be reactivated by the Board upon written request with proof of completion of 10 CE credits acquired within the 2 years preceding application and payment of the appropriate fee set by the Division.
- 8.4 A licensee is not authorized to work as an elevator mechanic in this State during the period of inactive status.
- 8.5 An individual whose license has expired for more than 1 year must reapply as a new applicant with proof of completion of 10 CE credits acquired within the 2 years preceding application.

9.0 Continuing Education

- 9.1 Licensees shall complete 10 hours of approved CE during each renewal period with the following exceptions: a person licensed less than 1 year does not need to complete CE at the first renewal; and a person licensed 1 year but less than 2 years must submit 5 CE hours at the first renewal. Beginning with the licensee's second renewal, the licensee must complete 10 hours of CE in compliance with this Section.
- 9.2 CE is required of all licensees and shall be completed by June 30 of any year in which a license is to be renewed. CE earned in excess of the required credits for the 2-year period may not be carried over to the next biennial period. Licensees will only get CE credit for their first attendance at CE courses during each licensing period. Licensees may retake a CE course in the same licensing period but will not receive additional CE credit.
- 9.3 Courses must be designed to maintain and enhance the knowledge and skills of licensees related to elevator work as defined by these rules and regulations.
- 9.4 Sponsors or licensees can obtain Board approval of courses at any time by completing a form approved by the Board and including a course outline with the number of classroom hours showing the breakdown of time allotted for each part of course content, the curriculum vitae or resume of the instructor and the appropriate fee set by the Division. The completed application will be presented for review at the next regularly scheduled Board meeting.
- 9.4.1 Sponsors or licensees seeking pre-approval should submit the request as provided in subsection 9.4 at least 60 days before the CE course is being offered.
- 9.4.2 Approval of CE automatically expires 2 years from the date of Board approval.
- 9.5 CE courses certified by the following organizations will be automatically accepted by the Board:
 - 9.5.1 National Elevator Industry Education Program or NEIEP;
 - 9.5.2 Certified Elevator Technician Certification or CET as offered by the National Association of Elevator Contractors;
 - 9.5.3 National Association of Elevator Contractors or NAEC;

9.5.4 National Association of Elevator Safety Authorities or NAESA; and

9.5.5 Qualified Elevator Inspector Training Fund or QEITF.

- 9.6 Post-Renewal Audit. Verification of CE hours shall be by attestation. Attestation shall be completed electronically. The Board will conduct random audits of renewal applications to ensure the veracity of attestations and compliance with the CE requirements. Licensees selected for the random audit shall submit CE course attendance verification in the form of a certificate signed by the course presenter or by a designated official of the sponsoring organization. Licensees shall retain their CE course attendance documentation for each licensure period. Licensees shall retain their CE course attendance documentation for at least 3 years after renewal. Licensees found to be deficient or found to have falsely attested may be subject to disciplinary action and sanctions. Licensees renewing during the late renewal period shall be audited.
- 9.7 An applicant for license renewal may be granted an extension of time in which to complete CE hours or a total or partial waiver of CE requirements upon a showing of hardship. Hardship may include disability, illness, extended absence from the country and exceptional family responsibilities. No extension of time or waiver shall be granted unless the licensee submits a written request to the Board prior to the expiration of the license.

10.0 Grandfathering

Any person holding a master electrician special elevator license, issued by the Delaware Board of Electrical Examiners, on or before June 30, 2024, will be issued an elevator mechanic license. An applicant who does not qualify for grandfathering must apply as a new applicant.

11.0 Reciprocity

- 11.1 An applicant for licensure by reciprocity shall submit an electronic application or through the Division of Professional Regulation, pay the required fee, and request that verifications of licensure or letters of good standing to be sent to the Board from the licensing agencies of all jurisdictions where the applicant is or has been licensed.
- 11.2 If the reciprocal state's requirements are not substantially similar to those of this State, as determined by the Board, the applicant shall submit proof of practice for at least 5 years after licensure. Proof of practice requires an employer's notarized affidavit describing the nature of the applicant's experience. If an applicant cannot obtain a notarized affidavit from the employer, the applicant must submit a letter explaining why the experience affidavit cannot be obtained, and W-2 forms or other tax documents showing 5 years full time employment may be substituted at the discretion of the Board.
- 11.3 Determination of Substantial Similarity of Licensing Standards. The applicant must submit to the Board a copy of the reciprocal state's current statute and rules and regulations pertaining to licensure requirements. The burden of proof is upon the applicant to demonstrate that the statute and rules of the licensing state are at least equivalent to the experience and examination requirements of this State. Based upon the information presented, the Board shall make a determination regarding whether the licensing requirements of the applicant's licensing state are substantially similar to those of Delaware.

12.0 Organization of the Board

- 12.1 Election of Officers. Annually, the Board shall elect officers to serve for a 1-year term. Special elections to fill vacancies shall be held upon notice and shall be only for the balance of the original term.
- 12.2 Duties of the Officers
- 12.2.1 President. The president shall preside at all meetings, designate subordinates when provided by law, sign correspondence on behalf of the Board, and perform other functions inherent in the position.
- 12.2.2 Vice President. The Vice President assumes the duties and powers of the President when the President is unavailable.

13.0 Voluntary Treatment Option For Chemically Dependent Or Impaired Professionals

- 13.1 A voluntary treatment option is available for chemically dependent or impaired professionals as provided in 29 Del.C. §8807(n) who are reported to the Board or Division using the following procedures:
- 13.1.1 If the report is received by the president of the Board, that president shall immediately notify the Director of Professional regulation or that Director's designate of the report. If the Director of Professional Regulation receives the report, they shall immediately notify the president of the Board, or that president's designate or designates.
- 13.1.2 The president of the Board or that president's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform the individual in writing of the report, provide the

individual written information describing the Voluntary Treatment Option, and give the individual the opportunity to enter the Voluntary Treatment Option.

- 13.1.3 In order for the individual to participate in the Voluntary Treatment Option, the individual shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board president or that president's designate.
- 13.1.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board president or that president's designate or designates or the Director of the Division of Professional Regulation or that Director's designate may, in consultation with the with the treating professional, deem necessary, only if the action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or that Director's designate and the president of the Board or that president's designate for a treatment plan and progresses satisfactorily in the treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the President of the Board.
- 13.1.5 Failure to cooperate fully with the Board president or that president's designate or designates or the Director of the Division of Professional Regulation or that Director's designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option and the Board president or that president's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in 29 Del.C. §8807(h).
- 13.2 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes the following provisions:

 - 13.2.1 Entry of the regulated professional into a treatment program approved by the Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.
 - 13.2.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the president of the Board or to that president's designate or designates or to the Director of the Division of Professional Regulation or that Director's designate at intervals as required by the president of the Board or that president's designate or designates or the Director of the Division of Professional Regulation or that Director's designate, and the person making the report will not be liable when the reports are made in good faith and without malice.
 - 13.2.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.
 - 13.2.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment programs. In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subsection shall approximate and reasonably reflect the costs necessary to defray the expenses of the Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.
 - 13.2.5 Agreement by the regulated professional that failure to satisfactorily progress in the treatment program shall be reported to the Board's president, or that president's designate or designates or to the Director of the Division of Professional Regulation or that Director's designate by the treating professional who shall be immune from any liability for reporting made in good faith and without malice.
- 13.3 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider the records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.
- 13.4 The Board's president, that president's designate or designates or the Direction of the Division of Professional Regulation or the Director's designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if the action is deemed necessary to protect the public health, welfare or safety.
- 13.5 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

- 13.6 Failure to enter into an agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.
- 13.7 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from the reports, and shall have that person's confidentiality protected if the matter is handled in a non-disciplinary matter.
- 13.8 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have the professional's confidentiality protected.

14.0 Crimes substantially related to work of an Elevator Mechanic

- 14.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or the solicitation to commit any of the following crimes, is deemed to be a crime substantially related to the work of an elevator mechanic in the State of Delaware without regard to the place of conviction:
- 14.1.1 Menacing (felony). 11 Del.C. §602
 - 14.1.2 Reckless endangering in the first degree. 11 Del.C. §604
 - 14.1.3 Assault in the second degree. 11 Del.C. §612
 - 14.1.4 Assault in the first degree. 11 Del.C. §613
 - 14.1.5 Manslaughter. 11 Del.C. §632
 - 14.1.6 Murder by abuse or neglect in the second degree. 11 Del.C. §633
 - 14.1.7 Murder by abuse or neglect in the first degree. 11 Del.C. §634
 - 14.1.8 Murder in the second degree. 11 Del.C. §635
 - 14.1.9 Murder in the first degree. 11 Del.C. §636
 - 14.1.10 Unlawful sexual contact in the second degree. 11 Del.C. §768
 - 14.1.11 Unlawful sexual contact in the first degree. 11 Del.C. §769
 - 14.1.12 Rape in the fourth degree. 11 Del.C. §770
 - 14.1.13 Rape in the third degree. 11 Del.C. §771
 - 14.1.14 Rape in the second degree. 11 Del.C. §772
 - 14.1.15 Rape in the first degree. 11 Del.C. §773
 - 14.1.16 Sex offender unlawful conduct against a child. 11 Del.C. §777A
 - 14.1.17 Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree. 11 Del.C. §778
 - 14.1.18 Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree. 11 Del.C. §778A
 - 14.1.19 Unlawful imprisonment in the first degree. 11 Del.C. §782
 - 14.1.20 Kidnapping in the second degree. 11 Del.C. §783
 - 14.1.21 Kidnapping in the first degree. 11 Del.C. §783A
 - 14.1.22 Arson in the second degree. 11 Del.C. §802
 - 14.1.23 Arson in the first degree. 11 Del.C. §803
 - 14.1.24 Burglary in the second degree. 11 Del.C. §825
 - 14.1.25 Burglary in the first degree. 11 Del.C. §826
 - 14.1.26 Robbery in the second degree. 11 Del.C. §831
 - 14.1.27 Robbery in the first degree. 11 Del.C. §832
 - 14.1.28 Theft; lost or mislaid property; mistaken delivery (felony). 11 Del.C. §842
 - 14.1.29 Theft; false pretense (felony). 11 Del.C. §843
 - 14.1.30 Extortion. 11 Del.C. §846
 - 14.1.31 Theft of rented property (felony). 11 Del.C. §849
 - 14.1.32 Use, possession, manufacture, distribution and sale of unlawful telecommunication and access devices (felony). 11 Del.C. §850
 - 14.1.33 Receiving stolen property. 11 Del.C. §851
 - 14.1.34 Identity theft. 11 Del.C. §854
 - 14.1.35 Forgery. 11 Del.C. §861
 - 14.1.36 Issuing a false certificate. 11 Del.C. §878

- 14.1.37 Unlawful use of payment card. 11 Del.C. §903
- 14.1.38 Criminal impersonation of a police officer. 11 Del.C. §907B
- 14.1.39 Insurance fraud. 11 Del.C. §913
- 14.1.40 Home improvement fraud. 11 Del.C. §916
- 14.1.41 New home construction fraud. 11 Del.C. §917
- 14.1.42 Dealing in children. 11 Del.C. §1100A
- 14.1.43 Endangering the welfare of a child. 11 Del.C. §1102
- 14.1.44 Crime against a vulnerable adult. 11 Del.C. §1105
- 14.1.45 Sexual exploitation of a child. 11 Del.C. §1108
- 14.1.46 Dealing in child pornography. 11 Del.C. §1109
- 14.1.47 Possession of child pornography. 11 Del.C. §1111
- 14.1.48 Sexual offenders; prohibitions from school zones. 11 Del.C. §1112
- 14.1.49 Sexual solicitation of a child. 11 Del.C. §1112A
- 14.1.50 Perjury in the second degree. 11 Del.C. §1222
- 14.1.51 Perjury in the first degree. 11 Del.C. §1223
- 14.1.52 Hate crimes. 11 Del.C. §1304
- 14.1.53 Stalking. 11 Del.C. §1312
- 14.1.54 Bombs, incendiary devices, Molotov cocktails and explosive devices. 11 Del.C. §1338
- 14.1.55 Adulteration. 11 Del.C. §1339
- 14.1.56 Possession of a firearm during a felony. 11 Del.C. §1447
- 14.1.57 Theft of a firearm. 11 Del.C. §1451
- 14.1.58 Breaking and entering, etc. to place or remove equipment. 11 Del.C. §2410
- 14.2 Crimes substantially related to the work of an elevator mechanic shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

27 DE Reg. 325 (11/01/23) (Prop.)