

# Staff Findings and Recommendations Report State Fire Prevention Commission

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*152<sup>nd</sup> General Assembly, 1<sup>st</sup> session*

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*Respectfully submitted to the  
Joint Legislative Oversight and Sunset Committee  
May 2023*

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The Joint Legislative Oversight & Sunset Committee (“JLOSC” or “Committee”) is a bipartisan 10-member legislative body which performs periodic legislative review of boards or commissions. The purpose of the oversight and sunset review is to decide genuine public need and if the entity is effectively performing. The Division of Research is a nonpartisan and confidential reference bureau for the General Assembly and supplies many services including staff support for JLOSC.

Special thanks: We appreciate the aid provided by State Fire Prevention Commission staff in conducting this review.

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# ABOUT THIS REPORT

This is a staff findings and recommendations report (“staff report”) drafted by Division of Research staff on the sunset and oversight review (“review”) of the State Fire Prevention Commission. This report includes staff recommendations for JLOSC review and discussion. Recommendations are not final until discussed and adopted by JLOSC with an affirmative vote by 7 members.

The review’s purpose is to find the public need for the entity and whether the entity is effectively performing to meet the need. The goal of the review is to supply strength and support to entities that are supplying a State recognized need.

JLOSC performs its duties with support provided by the Division of Research’s dedicated and nonpartisan staff in the form of two JLOSC research analysts with supplemental assistance from a legislative attorney, legislative fellow, and administrative assistant. JLOSC staff completes a performance evaluation of the entity under review and gives a staff report to JLOSC which includes research, analysis, key findings, and recommendations. During the review process, the following is not assumed:

- There is a genuine public need for the entity under review.
- That the entity is satisfactorily and effectively meeting a public need.

Rather, the entity under review has the burden of showing, through the statutory criteria for review included in their self-report and analyst requested supplemental documentation, that there is a genuine public need, and that the entity is meeting that need.

JLOSC selected the State Fire Prevention Commission for review on March 21, 2022. During the review process the State Fire Prevention Commission supplied information by completing a self-report which included a performance review questionnaire.<sup>1</sup>

Division of Research staff compiled the following findings and recommendations after completion of a performance evaluation which included thorough research and analysis outlined in the Objectives, Scope, and Methodology section of this report. Division of Research staff used national auditing and evaluation standards while conducting the performance evaluation. Those standards require that we plan and perform the evaluation to obtain sufficient evidence to supply a reasonable basis for our findings and conclusions based on our evaluation objectives. We believe that the evidence obtained supplies a reasonable basis for our findings and conclusions based on our evaluation objectives. The Objectives, Scope, and Methodology section discusses the fieldwork procedures used while developing the findings and recommendations presented in this report.

The recommendations contained in this report are not final until adopted by JLOSC by affirmative vote of 7 members. Under §10213(a), Title 29, the Committee must first decide whether there is a genuine public need for an entity under review. To meet this requirement, the Committee may select to continue or terminate the entity under review.

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<sup>1</sup> Self-reports available on the Committee’s website, <https://legis.delaware.gov/Committee/Sunset>

JLOSC meets publicly to review and discuss its staff's findings and recommendations, and the Committee is free to change, reject, or create brand new recommendations.

The JLOSC statute authorizes the Committee to recommend 1 or more of the following:

- Continuation of the entity as is.
- Termination of the entity.
- Termination of any program within the entity.
- Consolidation, merger, or transfer of the entity or the entity's functions to another entity.
- Termination of the entity unless certain conditions are met or modifications are made, by legislation or otherwise within a specified period.
- Budget appropriation limits for the entity.
- Legislation which the Committee considers necessary to carry out its decision to continue or terminate the entity.

The information contained in this report, along with the previously published self-report<sup>2</sup>, which includes background information from the entity under review, help JLOSC in conducting a review of the entity and meeting its statutory requirements under Chapter 102, Title 29. The "Staff Findings" section of this report has information to support the following staff recommendations.

### **Next Steps**

After the release of this report, JLOSC will hold a public hearing in early 2023 for each entity under review to present to the Committee and accept public comment on the scope of the review.<sup>3</sup>

The Committee will review all information received, including the findings and recommendations presented in this staff report. Recommendations are adopted after review, discussion, and an affirmative vote of 7 JLOSC members. Committee members are not bound by recommendations presented by staff and are free to change, reject, or create new recommendations. Once JLOSC adopts recommendations, the review moves to the implementation phase which may include drafting legislation.

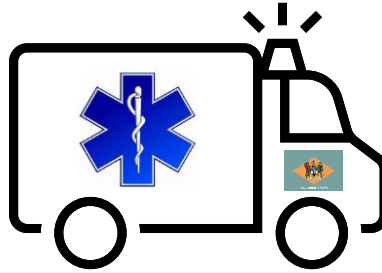
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<sup>2</sup> Self-Report is accessible on the Committee's website, <https://legis.delaware.gov/Committee/Sunset>

<sup>3</sup> Public meeting notices found on the Committee's website and the State of Delaware's Public Meeting Calendar.

# A Quick Guide to Emergency Medical Services in Delaware & Frequently Used Abbreviations in this Report



## EMS = Emergency Medical Services

**First Responder** = someone whose job includes responding immediately to an accident or emergency (commonly firefighter, law enforcement officer, paramedic, emergency medical technician).



Office of EMS provides EMS system oversight which includes 8 medical directors and the Delaware Emergency Medical Reporting System (DEMRS).

DEMRS provides access to patient data statewide for all EMS service providers, Delaware hospitals, billing companies, and inter-facility transport services.

## EMS System Broken into 2 Service Types, in Delaware under 2 Different Offices

### BLS = Basic Life Support



#### State Fire Prevention Commission Certifies and Regulates:

- All vehicles in operation as an **ambulance**.
- **EMR** = Emergency Medical Responder
- **EMT** = Emergency Medical Technician

### ALS = Advanced Life Support



#### Division of Professional Regulation Licenses and Regulates:

- **Paramedics**

Licensed by the Delaware Board of Medical Licensure and Discipline, under the Division of Professional Regulation, in collaboration with the Office of Emergency Medical Services.

# EXECUTIVE SUMMARY

The Office of the State Fire Marshal predates the State Fire Prevention Commission (“Fire Commission”). In 1955, the legislature created the Fire Commission as an advisory board to assist the Office of the State Fire Marshal. In 1958, that advisory role evolved into an oversight capacity with regulatory authority. By 1964, Delaware established the State Fire School and placed it under the authority of the Fire Commission.

Like most states, Delaware relies on a combination system of paid (“career”) and volunteer firefighters. The Fire Commission is the state agency charged with the protection of life and property from fire as well as the oversight of its dedicated office staff and two other offices: the State Fire School and Office of the State Fire Marshal. The state has placed more responsibilities under the Fire Commission throughout its almost 70 years of existence by expanding beyond fire service to include Basic Life Support (“BLS”) services.

The Fire Commission, comprising of seven Governor appointed members, hold monthly meetings to discuss issues surrounding fire and BLS services. Six full time employees support the Fire Commission. Staff responsibilities include administrative duties for commission meetings, inspections, and issuing annual permits for all vehicles operating as an ambulance, certification and regulation for emergency medical technicians.<sup>4</sup> Additional statutory duties assigned but not yet implemented to commission staff include certification and regulation for emergency medical responders, volunteer firefighters, and volunteer fire companies.<sup>5</sup> The Fire Commission collects annual financial reviews reports (defined in code as annual audits) from 63 volunteer fire and ambulance companies operating in Delaware. The Fire Commission appoints a Report Compliance Committee to facilitate review.

The Fire Commission staff noted in their self-report a need for behavioral health support for first responders. The self-report also outlined existing issues with resources to perform the annual financial review analysis “audit” function. Recent meetings of the Fire Commission outlined further issues with annual financial review analysis, such as the definition of a “hardship” when a volunteer fire company cannot comply with the annual reporting deadline.

JLOSC staff acknowledges and recognizes that the Fire Commission, through its Governor appointed Commissioners and the employees of the three offices under its oversight, work hard to ensure proper fire and BLS services, education, regulations, and policies protect life and property within the State of Delaware.

JLOSC staff completed a comprehensive performance evaluation of the Fire Commission, its staff, policies, regulations, and statute. The last JLOSC review concluded in 2009 and much has changed with the Fire Commission. Numerous legislative and regulation updates have been adopted, but also the fire and BLS professions, and even the State of Delaware, have changed so much in 14 years. The following findings and recommendations highlight these changes and identify areas to improve, streamline, and modernize. The goal is to ensure the proper resources are available to the Fire Commission and its staff so they can continue their important work to ensure fire and BLS protection for all Delawareans and visitors by maintaining the best support and resources for the brave fire and BLS professionals working hard in this state.

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<sup>4</sup> Regulation includes complaint investigations.

<sup>5</sup> Currently emergency medical responder certification issued by the State Fire School.



# OBJECTIVE, SCOPE, AND METHODOLOGY

## Objective

A performance evaluation conducted as required under JLOSC statute and based on the following criteria<sup>6</sup>:

1. If the agency is a licensing agency, the extent to which the agency has permitted qualified applicants to be licensed.
2. The extent to which the agency has served the public interests.
3. The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or whether those changes primarily benefit the agency or other entities and are of only indirect benefit to the public.
4. Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during previous legislative sessions.

## Scope

This review covers a 5-year performance period except where noted.

### JLOSC Statutory Criteria #1

If the agency is a licensing agency, the extent to which the agency has allowed qualified applicants to be licensed.

### Methodology for JLOSC Statutory Criteria #1

The State Fire Prevention Commission is a licensing agency, statutory criteria #1 is applicable to this review. This review looked at licensing (certification) practices by reviewing materials outlined in the fieldwork section of this report.

### JLOSC Statutory Criteria #2

The extent to which the agency has served the public interests.

### Methodology for JLOSC Statutory Criteria #2

As described in the fieldwork section of this report, this review explored the main duties and responsibilities listed in statute, chapters 66 and 67, title 16, except where noted. This report includes findings and recommendations pertaining to the main statutory duties.

### JLOSC Statutory Criteria #3

The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or primarily benefit the agency or other entities and are of only indirect benefit to the public.

### Methodology for JLOSC Statutory Criteria #3

The Commission submitted their self-report in June 2022 and included the following: "House Bill 193 is currently in a Senate Committee. This House Bill was submitted by the Delaware Volunteer Firefighters Association and the Fire Commission will fulfill the requirements of the bill if it should be passed."

House Bill 193 was enacted on July 27, 2022. Using the fieldwork listed in this report, this review provides findings relating to the Fire Commission's main statutory duties, which

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<sup>6</sup> 29 Del. C. § 10209.



includes new duties assigned to the Fire Commission by legislation, which includes House Bill 193.

#### **JLOSC Statutory Criteria #4**

Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during earlier legislative sessions.

#### **Methodology for JLOSC Statutory Criteria #4**

This is the third JLOSC review of the State Fire Prevention Commission, prior reviews conducted in 1993 and 2009. Using the fieldwork listed in this report, this review provides an update on implementation of past recommendations adopted by JLOSC in the staff findings section of this report.

#### **Fieldwork completed**

During this review, JLOSC staff completed review of the following:

- Reviewed all information supplied by State Fire Prevention Commission staff including:
  - Self-report.
  - Meeting minutes.
  - Current Commission membership.
  - Commission staffing.
  - Operating budget reports for fiscal years 2019-2023.
  - Annual reports for 2017-2021.
  - Kent County audit committee reports for 2018-2020.
  - New Castle County audit committee reports for 2019-2021.
  - Sussex County audit committee reports for 2019-2021.
  - Complaint and investigation logs for 2018-2021.
  - Staff policy manuals.
  - Annual Fire School Reports provided to Commissioners.
  - Governor Minner Executive Order 99 and associated study conducted by the State Fire Prevention Commission regarding audits of volunteer fire companies, dated September 2007.
  - Memorandums of Agreement:
    - State Fire Prevention Commission, Delaware Departments of Public Health, and Department of Health and Social Services for inclusion and coordination of basic life support services within the statewide trauma system, dated October 1998.
    - Prehospital Education Consortium of Delaware dated December 1998.
    - State Fire Prevention Commission and Delaware Department of Public Health and Department of Health and Social Services for inclusion and coordination of basic life support data collection within the statewide emergency medical service system, dated March 1999.
    - State Fire Prevention Commission and the Delaware Emergency Medical Services Oversight Council to coordinate the transmission of recommendations and responses between the Council and the Commission, dated May 2000.
    - Unsigned agreements and correspondence between the State Fire Prevention Commission and Delaware's counties, dated December 2000 and January 2001.
  - Memorandum of Understanding to promote residential fire prevention and safety among associates in Delaware's Poultry Industry, dated June 2005; and follow-up correspondence, dated June 2006.
- Current statute and regulations.

- Legislative task forces relevant to review:
  - 147<sup>th</sup> General Assembly task force final report: Funding of Ambulance and EMS Services, February 17, 2014.
  - 148<sup>th</sup> General Assembly task force final report: Delaware Financial Review of Volunteer Fire Companies, February 28, 2017.
  - 151<sup>st</sup> General Assembly task force final report: Volunteer Firefighter Recruitment and Retention Task Force, June 3, 2021.
- All available public documents such as: available news articles, social media, and websites related to state and county fire and emergency medical services, and nationally recognized resources.
- Delaware Volunteer Firefighters Association (“DVFA”) website and available public documents.
- National Registry of Emergency Medical Technicians website and data.
- Commission’s overall performance as it relates to current statute.
- Commission’s compliance with Freedom of Information Act (“FOIA”).
  - Public meeting calendar: Commission meeting notices, agendas, minutes.
- Commission member size, quorum trends, and composition.
- Commission member training opportunities.
- Fire Marshal annual reports.
- Fire School annual reports.
- Related legislation and task forces.
- State Auditor’s Office inspection reports issued on fire companies:
  - Marydel Volunteer Fire Company, 2014.
  - Belvedere Volunteer Fire Company, 2015.
  - Millville Volunteer Fire Company, 2016.
  - Gumboro Volunteer Fire Company, 2017.
- State Auditor’s Office State Fire Service Annual Reports for 2012-2022.
- National Association of State EMS Officials (“NASEMSO”) 2020 National Emergency Services Assessment.
- U.S. Department of Justice, Office of Community Oriented Policing Services published Standards and Guidelines for Internal Affairs.
- Delaware Emergency Medical Services Oversight Council (“DEMSOC”) annual reports for 2018-2022.
- Delaware Division of Public Health, Office of Emergency Medical Services public documents and website.
- State Fire Prevention Commission Fiscal Year 2024 Governor’s Recommended Budget Summary and operating budget.
- JLOSC staff attended monthly public meetings held by the State Fire Prevention Commission, April 2022 – May 2022
- JLOSC staff held a virtual meeting with Commission’s Executive Director to discuss the review and answer questions.

## **Review Background**

This is the third review of the Delaware State Fire Prevention Commission by JLOSC. This review began in April 2022. Entity’s support staff completed and returned a self-report in June 2022. JLOSC staff conducted research and drafted this findings and recommendations report.

# STAFF FINDINGS

## Finding #1

**The State Fire Prevention Commission (“Commission” or “Fire Commission”) has existed for 68 years. Since its creation, many things have changed within the fire service in the state, volunteer fire service progressed into a combination fire service including paid firefighter positions to support the demand. As the structure of fire service changed so did the responsibilities of the Fire Commission. In addition to fire service, the Commission supports Basic Life Support (“BLS”) care by certifying and inspecting all ambulance vehicles and the certification and discipline of all emergency medical technicians (“EMT”) and emergency medical responders (“EMR”). Despite changes, there remains outdated items such as the Commission’s staffing structure and language in Delaware code.**

In July 1953, Delaware established an Office of the State Fire Marshal, with a Governor appointed State Fire Marshal to serve a 4-year term. In 1955, the legislature created the State Fire Prevention Commission (“Commission” or “Fire Commission”) to advise the Office of the State Fire Marshal. The Commission also provided advice in drafting legislation and annual operating budgets for the Office of the State Fire Marshal. In 1958, legislation added a sixth member to the Fire Commission and changed the Commission to a regulatory body by granting the ability to promulgate regulations for fire and explosion hazards. This legislation also transferred the appointment authority for the Fire Marshal from the Governor to the Fire Commission. When the state created the State Fire School in 1964, it was placed under the Fire Commission’s authority, which included the authority to appoint a Fire School Director. The Fire Commission later gained authority in regulating the formation of any new fire companies in the state, which was later expanded to include substations and boundary dispute resolution. In the decades since, the legislature has continued to delegate more authority and responsibility to the Fire Commission, which include oversight of BLS care by certifying and inspecting ambulance vehicles and certification of EMT and EMR professionals. The Fire Commission operates as a state agency under the structure of a commission, a format the State of Delaware moved away from in the 1970s.

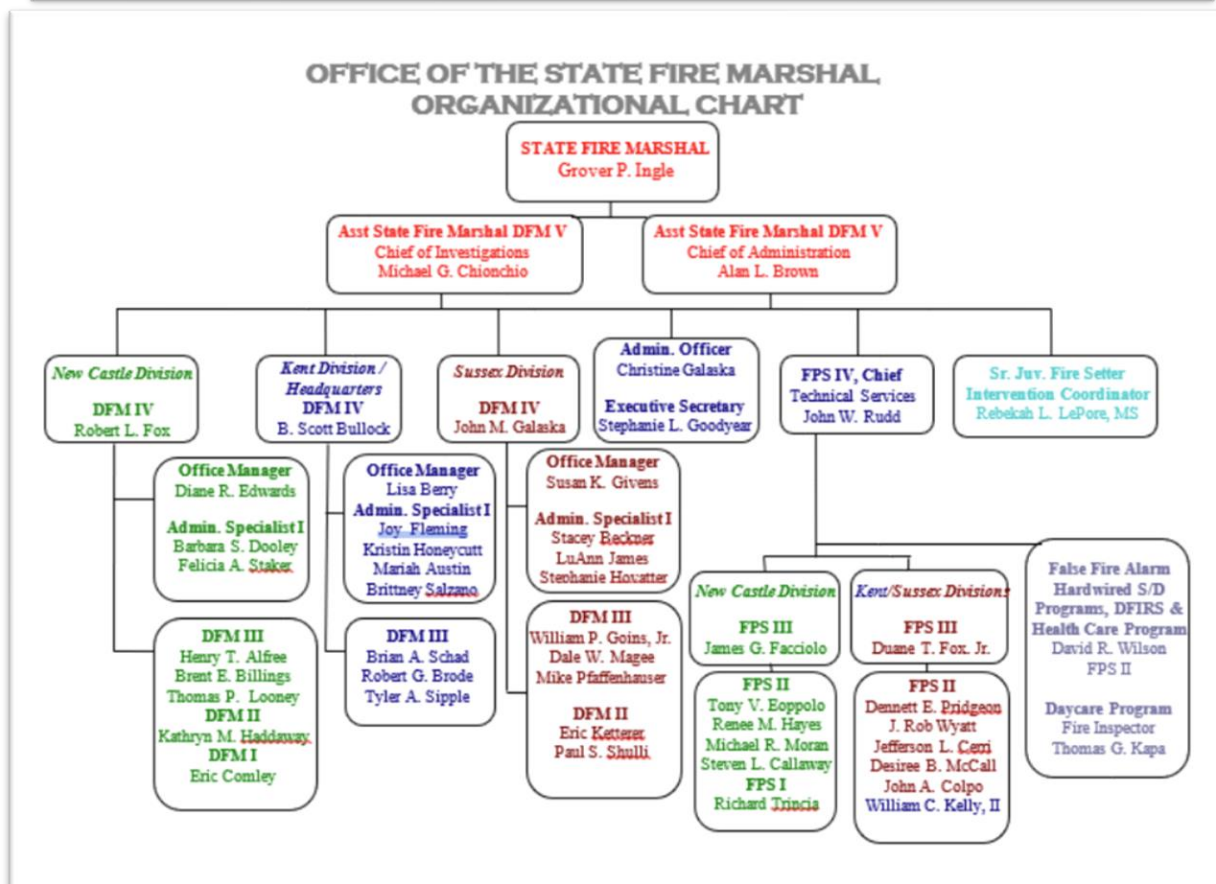
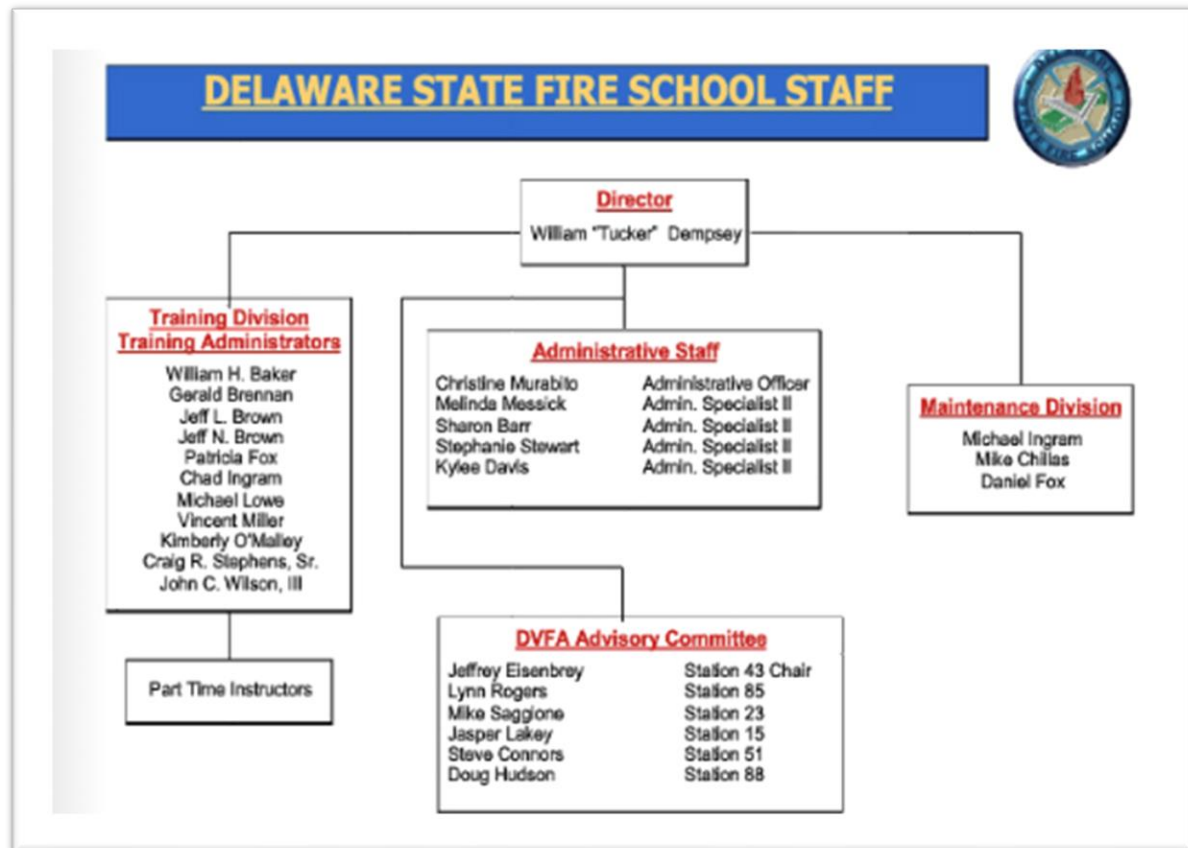
As the Fire Commission grew in responsibility, its staff size did not. JLOSC last reviewed the Fire Commission in 2009, and the Fire Commission employed one full time employee and one part-time contractual employee through A.I. DuPont Hospital. The Fire School completed ambulance vehicle inspections at the time of review. The 2009 JLOSC final report recognized that the ambulance vehicle inspections and enforcement authority should be within the Fire Commission’s purview. The review process identified additional staff needs for the transfer of ambulance vehicle authority and for the increased responsibilities of EMT oversight. Today, the Fire Commission is still small, with 6 full time employees despite operating as an agency with licensing authority and oversight of its staff and two offices: the State Fire School and Office of the State Fire Marshal.

Current Fire Commission full time staff include:

- (1) Executive director.
- (1) Administrative specialist.
- (1) Training and education administrator II (BLS administrator).
- (3) Investigator II.

The following is a staff size comparison with the two other offices the Fire Commission oversees, staff charts from each respective office's 2022 annual report are included:

- State Fire School approximately 20 full time employees.
- Office of the State Fire Marshal approximately 50 full time employees.



To provide some insight into the current workload of Fire Commission’s office staff, the following information was reported by the Fire Commission and included in the 2022 Delaware Emergency Medical Services Oversight Council (“DEMSOC”) annual report:

### 2022 Investigator II/Compliance Officer Statistics

|                                              |     |
|----------------------------------------------|-----|
| Complaints Received.....                     | 96  |
| Investigations on Existing Cases.....        | 51  |
| New Ambulances.....                          | 18  |
| Ambulance Inspections.....                   | 203 |
| Ambulance Inspection Deficiency Notices..... | 76  |

### 2022 EMT Certification and Ambulance Licensing Statistics

|                                   |            |
|-----------------------------------|------------|
| Fire Company Audit Received.....  | 63         |
| Civil Penalty.....                | \$5,100.00 |
| EMT (Initial) Certification.....  | 147        |
| EMT Recertification.....          | 804        |
| EMT Reciprocity.....              | 56         |
| EMT Background Checks.....        | 208        |
| Ambulance Licensing/Renewals..... | 68         |

The last three DEMSOC annual reports also provide State Fire School training goals that include the number of certified EMT and EMR professionals:

- 2018 annual report: 2019 goal to Conduct training for the **1,568 Delaware EMTs and 1,280 EMRs**
- 2019-2021 annual report: 2022 goal to conduct training for the **approximate 1,700 Delaware EMTs and 1,200 EMRs.**
- 2022 annual report: 2023 goals Conduct training for the **1,752 Delaware EMTs and EMRs.**

Additionally, the Fire Commission’s 2022 annual report provides the following office duty statistics:<sup>7</sup>

#### Office Duty Statistics – Administrative Specialist II

|                                       |      |
|---------------------------------------|------|
| Fire Company Information Update -     | 60   |
| EMT (Initial) Certification -         | 185  |
| EMT Recertification -                 | 600  |
| EMT Reciprocity -                     | 252  |
| EMT Card Reprints -                   | 15   |
| EMT Background Checks -               | 302  |
| EMT State Verification -              | 252  |
| BLS Annual Financial Form -           | 16   |
| Update Student Record -               | 1060 |
| EMT Verify Student Record -           | 600  |
| Meetings                              | 97   |
| Training Attended -                   | 11   |
| Scanning/Archiving Files -            | 250  |
| Incoming Agency Office Calls -        | 1927 |
| Financials (First State Financials) - | 469  |
| Fire Company Audit -                  | 63   |

<sup>7</sup> Fire Commission and DEMSOC reports no released at the same time and contain data compiled from different time frames.

The Governor's recommended budget summary for fiscal year 2024 for the Fire Commission contained four "not recommended" staffing positions:

- Administrative Specialist II and associated funding to support the Fire Prevention Commission as the primary contact for the agency and provide clerical support in the administrative/investigative unit.
  - **JLOSC staff finding:** The Fire Commission is a sizable agency with only 6 full-time employees, only one of which is an administrative specialist.
- Mental Health Program Administrator I and associated funding to support the development of program design and standards for a mental health wellness program. This program will provide first responders with the help necessary to reduce stress, prioritize mental health well-being, and promote healthy lifestyles.
  - **JLOSC staff finding:** If this position was granted to the Fire Commission, part of the job duties could involve updating the Fire Commission's website to include mental health information and resources, as well as developing outreach methods to communicate available mental health resources.
- Administrative Specialist III and associated funding to support the Fire Prevention Commission providing clerical support and supervision of the administrative staff assigned to the Investigative/Compliance Division and the Licensing/Certification/Permitting Division.
  - **JLOSC staff finding:** This report will discuss transferring an EMR certification from the Fire School to the Fire Commission. This position would be helpful to facilitate the transfer.
- Administrative Accountant and associated funding to support the Fire Prevention Commission providing planning, coordinating, monitoring, and analyzing of overall accounting processes and activities.
  - **JLOSC staff finding:** Most state agencies have some sort of administrative accountant support to assist with budget preparations and fiscal monitoring. The Fire Commission has a unique extra need in that an accountant could also help with the annual review of submitted financial reviews received from the 63-volunteer fire and ambulance companies.
  - **JLOSC staff finding:** In the event the position is not granted, \$75,000 in funding was listed as "recommended" for audit compliance review support. Specifically, for the Fire Commission to contract with a Certified Public Accountant ("CPA") firm to review the annual financial statements of fire companies statewide and report the findings to the Fire Prevention Commission.

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## Finding #2

**This is the third JLOSC review for the Fire Commission. The 2009 review had recommendations specific to the Commission, some which do not appear to be implemented.**

The Fire Commission has been reviewed by JLOSC (formally the Joint Sunset Committee) in 1993 and 2009. These prior reviews also included the State Fire School and the Office of the State Fire Marshal. The 1993 review had 6 total recommendations, mostly statutory changes, which have been implemented. The 2009 review had recommendations specific to the Fire Commission, some which do not appear to be implemented.

### **2009 JLOSC Review Recommendation #1 - Establish formal training programs for Commissioners.**

#### **2009 JLOSC Review Recommendation #1 Status: Partially Completed.**

The Fire Commission's submitted self-report states that Commissioners are not provided special training opportunities and training is not required.

- The self-report included the Commission's December 2009 update for JLOSC recommendation compliance which stated that \$15,000 was requested in the 2011 fiscal year budget for Commission training.
  - The Commission's Fiscal Year 2024 Governor's recommended budget summary request includes \$20,000 to "add funding to cover training fees, classroom fees, certification fees, and conference fees for agency Commissioners, Investigators, Administrators and other staff."
  - It is unclear how these funds are spent each year as information specific to training programs is not provided in the Commission's annual report.

### **2009 JLOSC Review Recommendation #2 - Continue to work with the Delaware Volunteer Firefighter's Association in drafting the Delaware Standards for Firefighter, Fire Officers, Fire Police and Administrative Officers draft legislation. Keep the JLOSC informed of the status of the draft.**

#### **2009 JLOSC Review Recommendation #2 Status: Not Completed.**

The Fire Commission formed the Commission Fire Service Standards Committee to discuss and met regularly throughout 2009 and 2010. It was disbanded in February 2011 with no legislation drafted.<sup>8</sup>

- Training or conduct standards do not exist in statute or regulation but as of July 2022 the Commission has oversight of complaints against firefighters or fire companies.<sup>9</sup>
- In order to properly investigate complaints, the Fire Commission will need to create conduct standards similar to what has been established for EMTs so that benchmarks and standards are established to evaluate standards of conduct and professional behavior.

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<sup>8</sup> Section 10 of submitted [self-report](#) includes the full 2009 update report, February 2011 Fire Commission meeting minutes stated, "A number of people have spent a couple of years working on the standards and it came to a screeching halt approximately 10 days ago. At this point and time, no one knows what directions the standards will go in. Some feel that it will happen in 5 years with the next Sunset Committee, some feel that something should be done right away."

<sup>9</sup> House Bill 193 with House Amendment 3, Senate Amendment 1, 151st General Assembly, enacted July 2022.



**2009 JLOSC Review Recommendation #3 - Continue to review and update all Rules and Regulations pursuant to the Administrative Procedures Act.**

**2009 JLOSC Review Recommendation #3 Status: Completed.**

Regulations updated numerous times since 2009. While this item is complying, this review has uncovered areas to further update.

**2009 JLOSC Review Recommendation #4 - Create a self-inspection checklist and require at least annual self-inspections and adopt regulations that enable the same authoritative language to compel the fire companies to comply.**

**2009 JLOSC Review Recommendation #4 Status: Not Completed.**

Last update received by JLOSC in 2009 stated, "This is being addressed through the Fire Service Standards Committee." A self-inspection checklist or adopted regulations for annual self-inspections could not be located.

**2009 JLOSC Review Recommendation #5 - The State Fire Prevention Commission currently has some authority over the State's volunteer fire companies, with the requirement to submit financial statements. However, there is no equitable way to insure that is completed since all fire companies in the State are not compensated equally – a fine of \$100 a day for some will not interrupt their daily operation, but to others it could mean some services may not be provided. The Delaware State Fire Prevention Commission and the Delaware Volunteer Firefighters' Association shall reach a consensus and present the JLOSC with recommendations addressing the issue of compliance/noncompliance.**

**2009 JLOSC Review Recommendation #5 Update: Completed.**

This has been resolved, the Fire Commission levies fines for non-compliance. Additionally, the Commission promulgated regulations regarding annual financial statements. This is an area the Commission should consider revisiting due to recent Commission discussions regarding the regulation definition of "hardship" and the process established for volunteer companies to request reporting extensions.

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### Finding #3

**First responders, which include firefighters and EMTs, are constantly exposed to traumatic events, staffing shortages have increased inadequate time between stressful calls. Repeated traumatic stimuli takes a toll, according to the Substance Abuse and Mental Health Services Administration (“SAMHSA”) 37% of EMS personnel and firefighters in the United States have contemplated suicide at some point in their lives, which is nearly 10 times the rate of average Americans. The Fire Commission and its offices have worked towards providing resources for the fire and BLS professionals they oversee and support, including signing a contract with Uprise Health in January 2023.**

JLOSC staff reviewed recent studies for current facts on the topic of mental health in the first responder community. The search revealed some sobering information:

- “69% of EMS providers report never having had enough time to recover between traumatic events.”<sup>10</sup>
- “From 2014-2020, more firefighters died by suicide than in the line of duty.”<sup>11</sup>
- 37% of EMS personnel and firefighters in the United States have contemplated suicide at some point in their lives, which is nearly 10 times the rate of average Americans.<sup>12</sup>
- “According to the University of Phoenix online survey, more than half of first responders (57%) feel that there would be repercussions on the job for seeking professional counseling. This represents a 10 percent increase over research conducted in 2018, where 47 percent felt there were repercussions. Perhaps more concerning is that 70 percent of first responders believe those who seek counseling will get better, compared to the 84 percent who believed counseling helped in 2018.”<sup>13</sup>
- “Among the 57 percent who feel there are repercussions for seeking counseling, 48 percent feel they would receive different treatment from supervisors and 35 percent think they would be perceived as weak by colleagues/peers.”<sup>14</sup>
- “Pervasive stigma and codes of silence among first responders are perhaps the most prominent obstacle to seeking help and finding adequate support.”<sup>15</sup>
- “For those who need help, or individuals who may be concerned about their loved ones or peers’ behavior, there are a number of excellent, confidential resources, including SAMHSA’s [www.findtreatment.gov](http://www.findtreatment.gov) site that can help identify local treatment resources.”<sup>16</sup>

Mental health and substance abuse discussions have been an ongoing part of Fire Commission meetings. In a May 2022 meeting, the Fire Commission and staff discussed

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<sup>10</sup> An assessment of depression, anxiety, and stress among nationally certified EMS professionals. Bentley, M. A., Crawford, J. M., Wilkins, J. R., et al., Prehospital Emergency Care, 2013.

<sup>11</sup> Firefighter Behavioral Health Alliance White Paper Series No. 1, February 2023.

<sup>12</sup> Disaster Technical Assistance Center Supplemental Research Bulletin First Responders: Behavioral Health Concerns, Emergency Response, and Trauma. SAMHSA, 2018.

<sup>13</sup> University of Phoenix Survey Finds More Than Half of First Responders Feel There Are Job Repercussions for Seeking Professional Mental Health Counseling. University of Phoenix, 2019.

<sup>14</sup> <sup>14</sup> University of Phoenix Survey Finds More Than Half of First Responders Feel There Are Job Repercussions for Seeking Professional Mental Health Counseling. University of Phoenix, 2019.

<sup>15</sup> Recognizing and Supporting EMS Providers with Mental Health and Substance Use Disorders. Langabeer, J., O’Neal, M., Joannou, S. Journal of Emergency Medical Services, 2020.

<sup>16</sup> Recognizing and Supporting EMS Providers with Mental Health and Substance Use Disorders. Langabeer, J., O’Neal, M., Joannou, S. Journal of Emergency Medical Services, 2020.

mental health concerns and how to distribute resources to first responders, which included obtaining additional resources and developing training. Fire Commission investigator Dave Truax highlighted the concern at the June 2022 Commission meeting by stating that half of the investigations completed in 2022 involved alcohol or drug use and that “the EMS system is stressed from the top down.” The Fire Commission received information from the Office of Emergency Medical Services in June and September 2022 meetings relating to their development for a Resiliency Officer Program. There is currently a resiliency resources toolkit available on the website for the Office of Emergency Medical Service.<sup>17</sup> The State Fire School website includes an entire section dedicated to health and wellness topics which include mental health and suicide prevention resources.<sup>18</sup> The “forms and reports” section of the Fire Commission website currently offers fatigue risk management guidelines. The Commission’s executive director Sherry Lambertson advised that Commission staff were currently developing additional website modifications to provide more resources and information.<sup>19</sup>

As of January 2023, the Fire Commission signed a contract with Uprise Health, a third-party vendor used by the Delaware Professionals’ Health Monitoring Program (“DPHMP”), under the Division of Professional Regulation, for mental health and substance abuse support for professionals by voluntary self-referral, referral by a third party, or mandate by a professional licensing board order. House Bill 82 enacted in September 2021 allows the Fire Commission to recommend EMTs into this program in lieu of imposing discipline upon respondents within the Commission’s jurisdiction.

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<sup>17</sup> Toolkit available at: <https://dhss.delaware.gov/dhss/dph/ems/files/ResiliencyResourcesToolkit2023.2.pdf>

<sup>18</sup> Resources available at: <https://statefireschool.delaware.gov/health-and-wellness/>

<sup>19</sup> Fatigue Risk Management Guidelines available at: <https://statefirecommission.delaware.gov/forms-reports/>

**As a navigational aide, the following 6 staff findings have 3 categories:**

- **Commission/Office:** General findings relating to the State Fire Prevention Commission or its oversight of Fire Commission staff, the Office of the Delaware State Fire Marshal, or Delaware State Fire School.
- **Emergency Medical Services (EMS):** Findings covering EMS topics including Emergency Medical Technicians (“EMT”), Emergency Medical Responder (“EMR”), and ambulance vehicles.
- **Fire:** Findings covering fire service, firefighters, and volunteer fire companies.

#### **Finding #4**

The annual “auditing” requirement has been misunderstood since its 1998 enactment. The Fire Commission needs more resources for the annual requirement. Remedial training should be offered to any company found in violation of annual financial review requirements of the Fire Commission. OnDemand training should be available for all volunteer fire and ambulance companies. A dedicated Fire Commission employee with a financial background would help the Commission implement this annual requirement. Communication between the State Auditor’s office and Fire Commission should be improved.

The annual “auditing” requirement has been misunderstood since 1998 when legislation enacted required the Commission to annually collect audit reporting forms from all volunteer fire and ambulance organizations in the state.<sup>20</sup> “Financial audit” is a misnomer. The Commission enacted regulations which refer to an annual statement completed by an independent certified public accounting firm at a minimum “review” level.<sup>21</sup> Regulations define “review” as:

Financial data analysis that provides less assurance than a full audit, but more than [than] a compilation (which provides no assurance). In a review, an auditor expresses limited assurance that the company’s financial statements do not require any material modification for them to be in conformity with the provisions of generally accepted accounting principles (“GAAP”).

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<sup>20</sup> Currently 63 total: 61 volunteer fire companies and 2 volunteer ambulance companies.

<sup>21</sup> Delaware Administrative Code: Title 1: 708.

There are three types of financial analysis available:<sup>22</sup>

- **Financial audit:** Is an in-depth examination of financial statements and accounting records, completed by an independent certified public accountant (“CPA”) to verify sufficient internal control processes and detect errors or fraud. An audit is the highest assurance available, and is more time consuming, because it verifies financial information with third parties.
  - Average Completion Time: 3-12 months.
  - Average Cost: between \$6,000 and \$20,000.
- **Financial review:** An independent review of a company’s financial records; however, it can provide limited assurance that a company’s records are accurate. Reviews can point out areas of concern but cannot report an evaluation of fraud risk like a financial audit. A financial review on average is less costly because it takes less time to complete.
  - Average Completion Time: 1-5 weeks.
  - Average Cost: between \$1,500-\$5,000.
- **Financial compilation:** Company’s internal accountant can complete. It organizes bookkeeping records into financial statements. This process takes the least amount of time, making it the cheapest option, however, it provides no assurance because no tests or analysis are performed.
  - Average Completion Time: 1-2 weeks.<sup>23</sup>
  - Average Cost: between \$750-\$2,500.

**Regardless of what type of financial analysis, there is no absolute assurance possible that a company is free from fraud** because an auditor cannot with 100% certainty certify that all financial records are free of misstatements or material modifications.

Statute requires the State Auditor’s office to provide advice relating to the annual “audits” however, JLOSC staff cannot confirm this has ever occurred. Delaware’s former State Auditor used the required annual financial review reports “audits” to prepare a special report, detailing a cost analysis and value amount that the volunteer fire service provides the citizens of Delaware. The 2022 report stated the “current combination system with volunteers saved the State of Delaware more than \$320,000,000 for the fiscal year ended June 30, 2022.” The 2022 report also included one recommendation, that the “Delaware legislature create a fund independent of Grant-in-Aid to fund Delaware’s fire service.”<sup>24</sup>

The Auditor’s annual special reports do not review for any irregularities. On the Auditor’s website there are four audits completed on volunteer fire departments. These audits were completed because the Auditor’s office received fraud complaints. Each audit report contained irregularities and areas of concern. JLOSC staff observed a history of

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<sup>22</sup> Average completion times and costs used in this report are estimates. Costs are based on complexity and vary with each audit. Many factors impact completion times such as time taken for CPA firm to receive required documents.

<sup>23</sup> Completion times can be longer if the CPA firm does not receive all required documents.

<sup>24</sup> Delaware Volunteer Fire Service, K. McGuiness, Delaware State Auditor, September 2022 Special Report, available at: <https://auditor.delaware.gov/wp-content/uploads/sites/40/2022/09/2022-Delaware-Fire-Service-Special-Report.pdf>

communication issues between the Auditor's office and Fire Commission. No Memorandum of Understanding or Agreement exists between the offices. Creating one would be helpful to improve communication with regard to the annual "audit" requirements and if needed, to facilitate action with any suspected fraud.

To review the annual financial reports, the Fire Commission developed a procedure and promulgated regulations directing the Commission to annually appoint three individuals, with financial expertise, to a "Report Compliance Committee" charged with the review of received annual financial reviews. There are currently 63 volunteer fire and ambulance companies in the State of Delaware, required to submit annual financial reviews.<sup>25</sup> Review of meeting minutes conclude the Fire Commission has struggled to find volunteers for this "Report Compliance Committee." The Fire Commission consistently had the same three volunteer reviewers for many years until one resigned in August of 2020. As of today, a replacement has not been appointed. Additional staff specializing in finance could assist the Commission in implementing this annual report. The Fire Commission has requested an additional staff position in their recent budget request to specifically assist in annual reviews.

JLOSC staff reviewed the Report Compliance Committee process. On an annual basis the three appointed Report Compliance Committee volunteers ("review volunteers") would not function in a typical committee meeting structure. Instead, they split up, each covering a county, to review received financial reviews. Each review volunteer would fill out a report sheet for the Commission. JLOSC staff reviewed these Commission reports, which contained review volunteer notes.<sup>26</sup> A few fire companies had multiple years of repeated observations and concerns from the review volunteer, with no action from the Commission, despite the Commission having the authority to order corrective actions and a full financial audit. The Commission's regulations state:

3.2 A full financial audit may be required, in the Commission's discretion, if a fire department or ambulance company receives a second annual "Review" report that continues to indicate insufficient corrective actions have been taken to address inadequate financial management, lack of appropriate internal controls, and/or issues or trends that indicate possible financial failure of the company.

JLOSC staff reviewed meeting minutes from January 2020 through April 2023 and could not find evidence that the Commission ever ordered a full financial audit for any volunteer fire or ambulance company. In fact, the Fire Commission held only 2 Rule to Show Cause hearings to discuss findings from the Report Compliance Committee, despite at least 13 companies showing review volunteer comments of concern in topics such as accounts not reconciled monthly, material weakness concerns, segregation of duty concerns, treasurer cross training, missing outside reconciliation, deficient or missing policies (such as budget, record retention, and whistleblower protection), failure to comply with budget procedures, and significant deficiency with supporting documentation for credit card transactions.

The most prevalent comment from review volunteers related to "uninsured cash balances." Comments regarding "uninsured cash balances" repeated for multiple years for at least 18

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<sup>25</sup> 61 volunteer fire companies and 2 volunteer ambulance companies.

<sup>26</sup> Review period: fiscal years 2019 through 2021.

companies. No Commission meeting discussion occurred on the comments regarding “uninsured cash balances.” It is unclear if the review volunteers privately explained to Commission members what their “uninsured cash balance” comments meant.

For informational purposes, uninsured cash balances occur when cash balances exceed the automatic Federal Deposit Insurance Corporation (“FDIC”) coverage for a depositor.<sup>27</sup> In a financial review, this can signal a fraud risk but is dependent on many factors. A basic internet search on uninsured cash risks yielded the following chart from Accountingguide.com which explains why cash is inherently risky:

| Reasons why cash is inherently risky |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>High Volume of Activity</b>       | Usually, cash has a high volume of activities during the period comparing to other accounts. This is due to either incomes or expenses are likely to involve in cash in the business transactions. Hence, the high volume of transactions tends to make cash more susceptible to error compared to other accounts in financial statements.                                                                                                                                                                                                                                                                                                                               |
| <b>Ease of Transferability</b>       | The process of cash transfer, either between company branches or countries, is much easier compared to other assets such as property or machinery. This could lead to fraud or illegal activity such as money laundering if no proper controls are in place.                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Most Liquidity Asset</b>          | Cash is the most liquid asset in the balance sheet comparing to other assets. Hence, it is most susceptible to fraud as it is easily taken out or transferred between one bank account to another with the electronic transfer.                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Debt Covenant</b>                 | <p>Most of the time, cash is tied to the debt covenants when the company borrows money from the banks or other lenders. This will put pressure on the management of the company in handling the cash in the company.</p> <p>For example, debt covenants might require the company to maintain a certain percentage of cash compared to its total assets or its equity. In the case of a cash shortage, the management may try to manipulate the cash account to meet the requirement of the covenants.</p> <p>This is a serious case as the company may face going concern issues if there is a breach of covenants and lenders demand all their money back at once.</p> |
| <b>Prone to Theft</b>                | Cash is most prone to theft either from internal staff or external people if there are no proper controls in place. Though, the main concern related to cash thief here is the internal thief as it is usually related to the triangle of fraud whenever fraud and theft happen.                                                                                                                                                                                                                                                                                                                                                                                         |

<sup>27</sup> FDIC insurance coverage limit is currently \$250,000, last raised in 2008 from \$100,000.



Since the “uninsured cash” comment appeared frequently, education courses could have been developed or offered to assist companies in assuring adequate cash management practices were used. The Fire Commission should review current annual financial review requirements and determine expectations and goals. A subcommittee could be appointed to facilitate this review. Based on the outcome, the Fire Commission should determine if the type of annual financial analysis and frequency should be adjusted. For example, in years ending in an even number, the Fire Commission may submit a financial compilation and a copy of the company’s financial management procedures and in odd years submit a financial review completed by an outside, independent CPA. Part of this review should include available financial educational resources and Commission staffing needs.

With respect to review volunteer reports, the Fire Commission noted at their August 2020 meeting that some review volunteer reports were more detailed than others and that. While there is a standard reporting form used, there was not a standard for review information reporting used. The Commission arranged meetings with the review volunteers of the Audit Compliance Committee to address these concerns. November 2020 meeting minutes provided a brief update that meetings occurred that discussed the review processes and the Commissioners felt they had a better understanding of the process. As a result of these meetings, regulations were not updated, it is assumed internal processes were adjusted. Details of the process or discussions were not published.

The Fire Commission has the authority to levy fines on companies that are found late or deficient with annual financial reviews. The Fire Commission should consider recommending remedial training in lieu or in addition to fines.

Lastly, the annual “auditing” topic received attention from the legislature in 2016 after an embezzlement case of almost \$200,000 occurred within a Delaware fire company. The task force reviewed financial controls and audit procedures as required by the Fire Commission’s statute and regulations. The task force produced a final report in February of 2017 which included 5 recommendations.<sup>28</sup> The following are updates of activities since the release of the final report of the task force:

- Legislation enacted in April of 2018 provided the Fire Commission with more enforcement authority.
- The State Fire School developed and implemented a financial overview course. This 2-hour course was last held virtually on February 1, 2023.
  - The task force report included *Recommendations for Internal Control Best Practices* in the task force appendices which was to be incorporated into the training.<sup>29</sup>
    - The Fire Commission should consider placing these best practices on their website. The Fire Commission should also consider adding these best practices into their regulations so that it is clear that these are the best practices companies are being held to with regard to the annual financial review process.

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<sup>28</sup> Task force final report available at: <https://legis.delaware.gov/TaskForceDetail?taskForceId=258>

<sup>29</sup> Relevant section available in appendix B.

- The Fire Commission last modified regulation 708 which outlines annual financial reporting requirements on April 1, 2013. To date, the first recommendation of the task force has not been implemented by the Fire Commission:
  1. State Fire Prevention Commission shall create regulations in keeping with the recommendations of the task force as documented in Recommendations for Reporting and Compliance (Appendix G).<sup>30</sup>

The goal is to reach full compliance of all Volunteer Fire Companies in the State of Delaware and if such compliance is not adhered to then the State Fire Prevention Commission may refer the non-compliant entity to the State Auditor's office and request an immediate financial audit of the entity.

## Finding #5

**The Fire Prevention statute is need of updates; sections relating to the State Fire Marshal and State Fire School include outdated and inefficient hiring and management practices which do not reflect current office operations. The Fire Commission's statute does not accurately reflect the work of its office staff. Definitions should be reviewed for frequently used actors, adding definitions when necessary. Fire Commission membership lacks a certified EMT member.**

Statutory authority is granted to the Fire Commission to have full authority over the State Fire School. The State Fire Marshal statute has less authority granted to the Commission. Both agencies must receive the Commission's approval to hire staff.

At each monthly Commission meeting, both agencies typically go through staffing reports, often with requests to hire. In public meetings, It is advisable to limit sharing personal information, such as medical leaves and disciplinary matters, of agency employees. Requiring two state agencies to wait until a monthly Commission meeting to gain approval to hire an employee is a dated and inefficient practice. The State of Delaware has two state agencies, the Office of Management and Budget and Department of Human Resources, established to oversee agency budgets and management of employee recruiting and retention practices. Additionally, the State of Delaware has a defined hiring process, which involves authorizations by the Office of Management and Budget.

The Fire Commission's seven appointed Commissioners are volunteers that convene monthly for Commission meetings. The Commission's statute does not delegate oversight authority to Commission staff, nor should it. The Commission appoints a State Fire Marshal and director for the State Fire School, which are responsible for the oversight and daily operations of their respective agencies and their respective statutes should reflect this authority and responsibility. The Fire Commission's statute should be modified to match their current website mission statement, which correctly recognizes the oversight function:

"The State Fire Prevention Commission is charged with the protection of life and property from fire for the people of Delaware and to oversee the operation of the Delaware State Fire Marshal's Office and the Delaware State Fire School."

Important to note, the current mission statement does not include the Commission's BLS duties. This is in line with the Fire Commission's statute and how it does not accurately reflect the work of its office by recognizing the BLS duties assigned in another chapter of

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<sup>30</sup> Relevant sections of this task force report available in appendix A. Full report available on the General Assembly website: <https://legis.delaware.gov/TaskForceDetail?taskForceId=258>

code. The office, under the Fire Commission's oversight, issues certification and investigates BLS professionals and certifies and inspects all ambulance vehicles.

The Commission's statute outlines the following 23 statutory duties<sup>31</sup> and JLOSC staff made the following observations:

**1. Statutory duty:** Formulate rules and regulations.

- **Statutory Finding 1-a:** Regulations in 709 fire service standards are not gender neutral, still have references to "fireman" associations even though the associations listed updated names to use "firefighter."
- **Statutory Finding 1-b:** The Fire Commission forms committees or subcommittees to address various items including revising regulations. These subcommittees recently started using the public meeting calendar to post their meetings announcements, agendas, and meeting minutes. It seems all active subcommittees except for the recruitment committee, are using the public meeting calendar. Subcommittees are subject to FOIA requirements and should be conducted in the same manner as full commission meetings.
- **Statutory Finding 1-c:** This review outlines many areas that are missing regulations.
- **Statutory Finding 1-d:** Chapters in regulations could be reformatted to separate emergency medical technician and responder provisions into their own chapter. This would help the public easily find regulatory information pertaining to certification and discipline.

**Recommendation:** Missing regulations identified by the report should be created. Current language should be gender neutral. The Fire Commission should consider separating emergency medical technician and responder regulations into their own chapter. The Fire Commission should advise its committees and subcommittees, including those created to discuss regulation revisions, to follow FOIA requirements.

**2. Statutory duty:** Create a State Fire Prevention Commission Executive Director.

- **Statutory Finding 2-a:** The Fire Commission created an executive director position. In practice, the Fire Commission's office is a state agency and the executive director functions as an agency director. The current executive director has worked for the Fire Commission since the 1990s and was the only full-time staff member employed in 2009 when JLOSC conducted its last review of the Fire Commission. The executive director has been overseeing a small staff for at least the past fifteen years. During this review period, the executive director has been performing duties similar to other agency directors.

**Recommendation:** Consider statute revisions to accurately reflect the title of "director" and remove executive director duties listed in statute. As discussed in another section of this report, consider creating a separate chapter for the office functions of the Fire Commission, codifying the

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<sup>31</sup> 12 Del. C. § 3992.

agency's duties and responsibilities, like the chapters established for the two agencies the Fire Commission oversees: the Office of the State Fire Marshal and the State Fire School.

**3. Statutory duty:** Appoint a State Fire Marshal, provide oversight and advice for office.

- **Statutory Finding 3-a:** The Fire Commission has an appointed State Fire Marshal who provides monthly reports to the Commission.

**Recommendation:** None specific to this finding.

**4. Statutory duty:** State Fire Marshal hires staff with consent and approval of the State Fire Prevention Commission.

- **Statutory Finding 4-a:** The Fire Commission has an appointed State Fire Marshal who provides monthly reports to the Commission.

**Recommendation:** None specific to this finding.

**5. Statutory duty:** Appoint a State Fire School Director. State Fire Prevention Commission has full authority over the Delaware State Fire School. The Director hires staff, sets and collects fees with consent and approval of the Commission.

- **Statutory Finding 5-a:** The Fire Commission has an appointed State Fire School director who provides monthly reports to the Commission.

**Recommendation:** None specific to this finding.

**6. Statutory duty (chapter 66, in Title 16):** Conduct hearings, issue orders, and issue subpoenas during the investigation of a complaint made under the State Fire Prevention Commission statute. This includes a public hearing on the complaint and an appeal to the State Fire Prevention Commission from a State Fire Marshal order or decision.

**Statutory duty (chapter 67, in Title 16):** Suspension of [EMT] certificate by Commission pending hearing.

- **Statutory Finding 6-a:** The certification of EMTs is under chapter 67 in Title 16 while the Fire Commission is under chapter 66 in Title 16. The EMT chapter lacks clarification that the Fire Commission accepts and investigates complaints on certified EMT and EMR professionals, further the language used regarding investigations is different from the language used in the Fire Commission chapter. The Fire Commission chapter does state the Fire Commission can hold hearings and suspend "certificate holders." Both chapters may lack sufficient definitions for frequently used actors such as: volunteer firefighters and volunteer fire companies. EMT certificates are covered under the ambulance service regulations (chapter 710), where complaint and investigation procedures are detailed.
- **Statutory Finding 6-b:** JLOSC staff reviewed five years of complaint and investigation logs covering calendar years 2017 through 2021. JLOSC staff has spoken to the Fire Commission executive director regarding improvements to the logs.

- **Statutory Finding 6-c:** List of active EMTs on Commission's website appear to not include EMTs that are suspended; however, the list includes EMT's on probation. There's no designation on the list that an EMT is on probation or has discipline. In contrast, the license verification system for paramedics through DPR includes this information when verifying a license.
- **Statutory Finding 6-d:** Investigators must request Commission permission to schedule a case for a hearing and close cases, this is not efficient because the Commission meets once a month. Additionally, case details for closed cases should remain private because they have not been substantiated. Investigative staff has professional support with the BLS medical director to review complaints for professional infractions. However, Fire Commission membership does not have a member who specifically holds current EMT certification. License investigation operates differently from criminal investigations. JLOSC staff has reached out to similar staff under the Division of Professional Regulation, who also investigate license complaints, for training resources and peer support specific to license investigation.

**Recommendation:** The investigative staff of the Fire Commission should analyze their procedures and processes to make recommendations to the Fire Commission for improvement. Fire Commission should be receptive to changes and needs presented by investigative staff, and willing to delegate authority to carry out the investigative duties with efficiency and in line with national standards. Fire Commission membership should be expanded to include a member with current EMT certification.

**7. Statutory duty:** Impose any civil penalty or fine authorized under the State Fire Prevention Commission statute.

- **Statutory Finding 7-a:** The Commission typically imposes penalties for volunteer fire companies who are late submitting annual financial review documentation and has the ability by statute to issue other fines. Statistics reported in the 2022 DEMSOC annual report stated the Fire Commission issues \$5,100 in civil penalties.

**Recommendation:** None specific to this finding.

**8. Statutory duty:** Impose substance abuse evaluation and treatment by third-party vendors in lieu of imposing discipline upon respondents within the jurisdiction of the Commission.

- **Statutory Finding 8-a:** Fire Commission signed a contract with Uprise Health on January 1, 2023<sup>32</sup> and staff are working to implement facilitating use of the contract, which includes updates to their website.

**Recommendation:** None specific to this finding.

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<sup>32</sup> Third-party vendor for the Division of Professional Regulation's Delaware Professionals' Health Monitoring Program, which offers mental health and substance abuse support for professionals by voluntary self-referral, referral by a third party, or mandate by a professional licensing board order.

**9. Statutory duty:** Administer the volunteer firefighter tuition reimbursement program pursuant to § 3467 of Title 14.

- **Statutory Finding 9-a:** The State Fire School staff handles reimbursement. Information and application are located on the State Fire School website. Fire Commission meeting minutes include updates regarding tuition reimbursement requests. An annual update on the amount of reimbursement should be provided in the State Fire School annual reports. Since this statutory duty is listed under Fire Commission responsibilities, and the Fire Commission has oversight of the State Fire School, the Fire Commission should include an annual update on this program in their annual report as well.

**Recommendation:** Provide annual statistics on the tuition reimbursement program in State Fire School and Fire Commission annual reports.

**10. Statutory duty:** Hear and resolve complaints and grievances concerning issues between fire companies.

- **Statutory Finding 10-a:** This part of code was enacted in July 1982 and regulations exist on the procedure. Regulations direct complaints to be submitted first to the fire company's president, chief, or board of directors first, with a copy sent to the Fire Commission. Mediation procedures involve closed proceedings. It is unknown how often the Fire Commission has received copies of complaints and grievances involving fire companies, none were discussed in meeting minutes over the past 3 years. The statute was modified in July 2022 to include complaints regarding misconduct. It is unclear how processing misconduct complaints would fit within the grievance process currently in regulations.

**Recommendation:** It is advisable for the Fire Commission to consider updating and revising these regulations to match any current processes used and to incorporate statutory updates.

**11. Statutory duty:** Hear and resolve complaints and grievances concerning claims of official misconduct by firefighters and fire companies.

- **Statutory Finding 11-a:** This is a new part of code, enacted in July 2022. No regulations exist outlining conduct standards for firefighters and fire companies. To investigate and resolve complaints regarding misconduct, some sort of conduct or professional standards should exist. The statute is silent on conduct standards and discipline. Additionally, the Commission has not implemented certification of firefighters and does not license fire companies.

**Recommendation:** Fire Commission should draft regulations for firefighter and fire company conduct standards and outline discipline for infractions. Commission should work to implement certification of firefighters.

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**12. Statutory duty:** Investigate injuries to firefighters incurred in the line of duty, to issue subpoenas in furtherance of such investigations, and to issue reports of its findings and conclusions with respect to such investigations.

- **Statutory Finding 12-a:** This is a new part of code, enacted in July 2022. The Commission does not have a mechanism in place to facilitate this type of investigation and collect data.

**Recommendation:** The Commission, through its staff, need to create policy and procedures for data collection and review. Information on the process should be placed on the Commission's website. Rules may need to be promulgated to implement this part of the statute.

**13. Statutory duty:** Submit an annual report to the Governor, submit a financial statement with all Commission expenditures and income, and, in even-numbered years, submit a budget showing projected expenditures to the Budget Commission.

- **Statutory Finding 13-a:** The Commission and its staff are compliant with this statutory duty. The current annual report is available on the Commission's website. The Commission could consider providing previous annual reports online.

**Recommendation:** None specific to this finding.

**14. Statutory duty:** Authorize new fire companies or substations, resolve boundary disputes, and prohibit cessation of necessary fire protection services.

- **Statutory Finding 14-a:** During the past three years, the Fire Commission received two new substation requests: July 2021 from Millsboro Fire Company and December 2021 from Bowers Fire Company.
  - Millsboro Fire Company granted temporary permit, as of February 2022 still operating under the temporary permit until generator is installed and working. No further updates provided in meetings as of April 2023.
  - Bowers Fire Company submitted a substation packet for review at the December 2021 meeting and a committee was appointed to work with Bowers Fire Company to ensure they had everything required by regulation. Membership was not disclosed in meeting minutes. Status of this substation packet is unknown. As of April 2023, there have been no further meeting updates. The committee did not use the public meeting calendar to post meeting announcements or documents.
- **Statutory Finding 14-b:** There are regulations for standards and requirements, includes equipment, training, staffing levels, and communication requirements, for **new** fire companies and their staff. These regulations are not extended to existing fire companies or new substations. For new substations, regulations only require the Fire Commission review construction plans, financial ability, and district boundaries. The Fire Marshal has an inspection process that occurs after preliminary plans are approved.



**Recommendation:** Any subcommittees or committees formed by the Fire Commission are recognized as public bodies under FOIA and must abide by FOIA requirements. The Fire Commission should consider revising their regulations to require the standards and requirements for new fire companies to apply for all volunteer fire companies and substations.

**15. Statutory duty:** Financial audits of volunteer fire and ambulance companies.

- **Statutory Finding 15-a:** The annual “auditing” requirement has been misunderstood since 1998, this is discussed in finding #4 of this report.
- **Statutory Finding 15-b:** The Commission received numerous audit extension requests at their July 2022 meeting. Four extension requests cited COVID illnesses as their hardship and only one extension request was granted. It is unclear why the other three, seemingly identical requests were denied and required to appear for a hearing. The Commission did not seem consistent on granting extensions and it seemed contingent on a fire company representative appearing at the meeting, which is not required by regulations. The Commission discussed their regulations and extension review process. Suggestions explored included further defining “hardship” in regulations and meeting appearance requirements.
- **Statutory Finding 15-c:** House Bill 127 creates a specific account for each county to collect a fire protection fee. Any funds received from these fire protection fees would be included in the annual financial review statements (referred to as “annual audit” in code and bill). This legislation was voted out of committee on April 26, 2023 and is on the House ready list.
- **Statutory Finding 15-d:** Some states require state funds provided to volunteer fire departments to be kept in a separate account, which is subject to annual or random audit. Delaware does not have any stipulations, reporting, or auditing requirements for money received through the state’s grant and aid process. The only stipulation for a proposed new fund of money in House Bill 127 is that the funds would be reported in the annual financial “audits.”

**Recommendation:** Revise this section of code to reflect the current annual financial review statements. Include *Recommendations for Internal Control Best Practices* on the Commission’s website. The Commission should encourage the State Fire School to create an online, on-demand, version of their financial overview course. Regulations should be updated to include *Recommendations for Internal Control Best Practices*, implement the recommendation from the task force’s 2017 final report, and incorporate any extension review process changes.

**16. Statutory duty:** Certification and decertification of ambulance attendant or emergency medical technician certifications by the State Fire Prevention Commission.

- **Statutory Finding 16-a:** Ambulance attendant is an outdated term and certifications are no longer issued by the Commission. The term is still in numerous sections of the Delaware code, including the section relating to

certification of EMTs and criminal background checks.<sup>33</sup> The definition is in a different chapter and defines an ambulance attendant as:

A person trained in emergency medical care procedures and currently certified by the Delaware State Fire Prevention Commission or its duly authorized agent in accordance with standards prescribed by the Commission. Such course shall be classified as basic life support and shall be the minimum acceptable level of training for certified emergency medical personnel.”<sup>34</sup>

- **Statutory Finding 16-b:** Based on Commission regulations and the National Highway Traffic Safety Administration’s National Emergency Medical Services Education Standards, Emergency Medical Responders (“EMR”) appear to have a similar definition. EMRs have skills and knowledge to provide immediate lifesaving aid while waiting for higher level personnel, such as EMTs and paramedics, to arrive. EMRs can also assist by driving ambulances.
- **Statutory Finding 16-c:** The National Registry of Emergency Medical Technicians (“National Registry”) provides certification for EMRs but not all states require certification. Delaware issues certifications for EMRs but does not require the National Registry certification examination. Delaware does require examination and registration through the National Registry for all EMT applicants.
- **Statutory Finding 16-d:** EMRs are absent from Delaware code and should be included. Fire Commission regulations define EMRs and outline licensure and standards of practice.
- **Statutory Finding 16-e:** EMR regulations put licensure authority within the Commission, however, the State Fire School has been issuing certifications and has applications on its website. The State Fire School is a training provider for EMT and EMR education and should focus on training. The Fire Commission office staff already processes applications and renewals for EMT certifications. EMT and EMR professionals fall under the BLS umbrella and one office should issue and monitor both certifications. Additionally, the Fire Commission office staff is now in a better position to take on EMR certifications with a newly created BLS administrator position.
- **Statutory Finding 16-f:** Fire Commission August 2022 minutes explained that a new reciprocity process and curriculum would begin in January 2023. As of May 2023, the reciprocity information on the Fire Commission’s website was last updated on June 30, 2022.
- **Statutory Finding 16-g:** The EMT application found on the Fire Commission’s website does not include the same information found on the National Registry website when it comes to license expiration of the first issued certification.<sup>35</sup> The Nation Registry states:
  - Initial expiration dates are determined by the date the candidate successfully completes the entire national certification process

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<sup>33</sup> 16 Del. C. § 6712.

<sup>34</sup> 16 Del. C. § 9702.

<sup>35</sup> EMT application processes explain that the first issued certification will have the same expiration date as their National Registry

(cognitive and psychomotor exams). EMT candidates completing the national certification process between the January 1 and June 30 will receive an expiration date of March 31 two years in the future. Individuals successfully completing the national certification process between July 1 and December 31 will receive an expiration date of March 31 three years in the future.

- **Statutory Finding 16-h:** All EMT certificate holders must pass a state BLS protocol exam. The Fire Commission website provides a list of EMT protocol renewals and their expiration dates for Delaware certified EMTs. BLS protocols are updated in a four-stage approval process, the current BLS protocols became effective on November 1, 2022 and were approved in the following order:
  - Approved by State EMS Medical Directors: April 13, 2022
  - Approved by ALS Standards Committee: May 18, 2022
  - Approved by the Delaware Board of Medical Licensure and Discipline: June 7, 2022
  - Adopted by the State Fire Prevention Commission: June 7, 2022

**Recommendation:** Delaware code should be updated to remove “ambulance attendant” and add Emergency Medical Responders (“EMR”). The Fire Commission should recommend the State Fire School transfer EMR certification duties to Fire Commission staff. If a new reciprocity process and curriculum process is active, Fire Commission staff should update applications and the website. EMT and EMR expirations should reflect the prorated expiration system used by the National Registry.

**17. Statutory duty:** Issues 1 year permits and processes renewals for vehicles in operations as an ambulance.

- **Statutory Finding 17-a:** The Commission’s statute and regulations cover issuing permits and renewals. Annual permits issued expire on December 31<sup>st</sup>, however the application and regulations do not match regarding the timeline for the renewal process.
  - Regulations state that the renewal period begins October 1st and ends December 31st annually and must meet all requirements established by the Commission. This renewal period starts approximately 90 days prior to the permit expiration date.
  - Application states avoid ambulance service operation interruptions to “submit a renewal application within 30 days, but not more than 60 days, prior to the Ambulance Service Permit expiration date.” This would submit renewal applications on December 1 (within 30 days prior to expiration) and November 1 (within 60 days prior to expiration).
- **Statutory Finding 17-b:** The 710 regulations covering ambulance service mention a “BLS financial report” which is not defined or covered anywhere else in regulations or statute.
  - Regulation 11.1.2.6 Non-Emergency Ambulance Service Providers shall provide with a new application or a renewal application, a BLS Financial report to the Commission.

**Recommendation:** Update renewal language on the application to match the regulation, stating that the renewal period begins on October 1<sup>st</sup> and ends December 31<sup>st</sup>. Applications should be submitted within 60 days, but not more than 90 days, prior to the expiration date. Define “BLS financial report” in regulation, include process and requirements for the report.

**18. Statutory duty:** Inspects ambulances including equipment and supplies. The Commission may suspend any ambulance permit based on inspection outcome.

- **Statutory Finding 18-a:** Meeting minutes include updates from Fire Commission investigative staff regarding how many inspections were completed. The Fire Commission’s 2022 annual report states that 400 ambulance inspections were completed in 2022 and 253 deficiencies were found and corrected. An inspection checklist is available on the Commission’s website which shows all items involved in the inspection.

**Recommendation:** None specific to this finding.

**19. Statutory duty:** Establishment of ambulance service districts; operational and administrative requirements; ambulance service permits and penalties. Publishes an annual list of certified ambulance service providers.

- **Statutory Finding 19-a:** The list of certified ambulance service providers on the Commission’s website was last updated on January 13, 2022. Additionally, the list does not designate for the public which are Primary and Secondary BLS Ambulance Service and Bariatric Providers, which is listed in statute and regulations, however, the statute is silent on listing this designation, but it would be helpful for the public to understand the distinction.

**Recommendation:** Update the posted list of certified ambulance service providers annually, include the type of ambulance service provided (primary BLS, secondary BLS, bariatric).

**20. Statutory duty:** The Commission may adopt regulations to establish an Incident Review Committee to consider incidents related to ambulance service and all proceedings of the Incident Review Committee shall be confidential.

- **Statutory Finding 20-a:** The status of this committee is unknown. Regulations established a committee with a different name: Statewide Basic Life Support (BLS) Quality Assurance and Quality Improvement Committee. No meeting announcements or documents could be located for this committee.

**Recommendation:** Since the status of both committees is unclear, the Fire Commission should advise how to update this section of statute to accurately reflect current committees. Any committee in operation should be adhering to FOIA requirements.

**21. Statutory duty:** The Commission shall monitor the occurrence of scratches by each ambulance service provider and take action to decertify any ambulance service provider that has excessive scratches. For purposes of this subsection,

“scratches” are defined as instances when a BLS ambulance is alerted but does not respond to a call for assistance. For purposes of this subsection, “excessive scratches” shall mean a number of scratches exceeding a pre-established number or percentage for each BLS provider, determined and communicated annually in advance to the provider by the State Fire Prevention Commission.

- **Statutory Finding 21-a:** The Fire Commission has been monitoring scratches and recently formed an EMS Scratch subcommittee to review current requirements and processes. The EMS Scratch subcommittee was formed by the Fire Commission in response to complaints relating to response times, bypass, and out-of-service practices. The subcommittee has been bringing various stakeholders, such as 911 center representatives, together to collect data and gain deeper perspective on the topic. The subcommittee’s goal is to assess whether a true issue is present with the current scratch rates and related reporting, and if so, to explore solutions. The subcommittee has been holding public meetings, using the public meeting calendar to post meeting notices. The subcommittee will report their findings to the Fire Commission.

**Recommendation:** None specific to this finding.

**22. Statutory duty:** State Fire Prevention Commission certifies volunteer firefighter members, adopts regulations to implement the subchapter on volunteer firefighters, and handles all volunteer fire department membership appeals.

- **Statutory Finding 22-a:** Subchapter VI in Chapter 66 covers volunteer firefighter membership requirements and crime convictions that would disqualify membership, however the process on certifying a volunteer firefighter member is unclear. The chapter also lacks a definition for “volunteer firefighter.”<sup>36</sup> Additionally, some volunteer fire companies in the state have started paying firefighter personnel, known as “career firefighters.” Statute does not define or cover career firefighters. No regulations have been adopted to implement certification of volunteer firefighter members. Regulations only address requirements for forming a new fire department and do not address career firefighters.
- **Statutory Finding 22-b:** Applications or information pertaining to Fire Commission certification of volunteer firefighter members is unavailable online. Membership applications on volunteer fire company websites vary and are not specific to the Fire Commission.
- **Statutory Finding 22-c:** The past three years of meeting minutes do not include information on certification of volunteer firefighter members or any appeals. It is unclear whether background checks are conducted for membership and, if conducted, it is unclear who receives the results.

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<sup>36</sup> House Bill 251, 144<sup>th</sup> General Assembly, enacted July 2007.

**Recommendation:** If the Fire Commission desires to have involvement in the certification of volunteer firefighter membership, regulations must be created as instructed by statute. The Fire Commission should determine if this should include career firefighters and, if so, statute modifications would be needed.

**23. Statutory duty:** State Fire Prevention Commission administers Volunteer Ambulance Company Fund.<sup>37</sup>

- **Statutory Finding 23-a:** The 147<sup>th</sup> General Assembly created the fund in 2014 after a legislative task force reviewed the issue.<sup>38</sup> The Fire Commission is charged with providing funds to volunteer fire companies in an equal manner based on approved dispatched ambulance runs. This fund was created to offset the additional costs relating to new response time goals and certification standards for basic life support and emergency medical services. According to the 2022 annual reports of the Delaware Emergency Medical Services Oversight Council and Fire Commission, the Fire Commission developed a disbursement plan and methodology to implement fund distribution. The disbursement plan and methodology used is not provided on the Commission's website or in regulation. The following information was provided in the 2022 report:
  - Reports are pulled to show the ambulance runs per agency and statewide from the Delaware Emergency Medical Reporting System (DEMRS). The DEMRS data shows all run types to include BLS Transport, Cancellation, Patient Refusal, Public Service, Standby Only, Agency/Assist, DOPA/DOA, Unable to Locate patients/scene, Termination of Resuscitation and Transfer of Care. In order to assure the validity of the information a Quality Assurance/Quality Improvement validation score of 85 percent is used as the minimum validity accepted as accurate reports. The reports mentioned above are entered by the providers who operate within the BLS system.
    - Fund status from Delaware Emergency Medical Services Oversight Council and Fire Commission 2022 annual report: Fire Commission distributed \$5,571,238 for the period of January 1, 2022, until December 31, 2022. The funds are distributed on a bi-annual basis.
    - Fund status from the Fire Commission's annual report, released July 2022: Fire Commission distributed \$5,022,267.37 for the period of July 1, 2021 through June 30, 2022. The funds are distributed on a bi-annual basis.

**Recommendation:** The Fire Commission disbursement plan and methodology to implement fund distribution should be published on the Commission's website.

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<sup>37</sup> 11 Del. C. § 4101.

<sup>38</sup> House Bill 315, enacted September 2014, Task Force on the Funding of Ambulance and EMS Services in Delaware (02/17/2014), established by House Bill 215 of the 147<sup>th</sup> General Assembly



## Finding #6

**Delaware is the only state to split up emergency medical service (“EMS”) oversight and authority regarding advanced life support (“ALS”) and basic life support (“BLS”). There are many established committees that meet to discuss EMS services in the state.**

In the 1970s, the federal government began requiring states to train and certify emergency medical service (“EMS”) personnel. Legislation first drafted to comply with this federal requirement placed the authority within Delaware’s Department of Health and Social Services (“DHSS”). With input from volunteer firefighters, the authority was split between DHSS taking authority over advanced life support (“ALS”), which includes paramedics, and the Fire Commission assuming authority over basic life support (“BLS”) professionals, which includes emergency medical technicians (“EMTs”) and emergency medical responders (“EMR”).<sup>39</sup> EMTs and EMRs are personnel used by volunteer fire companies to provide emergency medical services, which is likely why volunteer firefighters felt the Fire Commission would be more responsive and familiar with the unique challenges and concerns of volunteer fire companies. Delaware is the only state in the Nation to split ALS and BLS oversight. Other states use a centralized EMS office.<sup>40</sup>

Despite the unique setup of EMS oversight in the State of Delaware, there are many established committees that meet to discuss EMS services in the state. The following is not an exhaustive list, but an example of the groups that meet to discuss EMS topics, posting meeting announcements on the public meeting calendar:

- Local Emergency Planning Committee Oversight Committee.
- New Castle County Local Emergency Planning Committee Meeting.
- State Emergency Response Commission (SERC).
  - The primary focus of the SERC is to enhance state and local emergency response and preparedness capabilities through better coordination and planning. Membership includes the Fire Commission, Fire Marshal, and State Fire School.
- Enhanced 911 Emergency Service Board.
- Delaware Emergency Medical Services for Children (EMSC) Advisory Committee.
  - The only committee solely dedicated to emergency medical services for children. Membership includes the Fire Commission chair or designee.
- Delaware Emergency Medical Services Oversight Council (DEMSOC).
  - Examine policies and procedures and evaluate the effectiveness of the EMS system, specifically the respective roles, responsibilities, effectiveness and efficiency of the Office of Emergency Medical Services, the State Fire Prevention Commission, the Department of Safety and Homeland Security, the EMS provider agencies and the medical community.
    - 21 members includes chair of the Fire Commission.

According to the 2022 Delaware Emergency Medical Services Oversight Council (“DEMSOC”) annual report, “the majority of 911, emergency patient transportation is provided by the volunteer/career Basic Life Support (BLS) fire-based ambulance services and the Delaware State Aviation Division. ALS services are provided through a system of

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<sup>39</sup> Paramedics licensed by the Delaware Board of Medical Licensure and Discipline, under the Division of Professional Regulation, in collaboration with the Office of Emergency Medical Services.

<sup>40</sup> County and regional entities exist in Colorado and California for EMS oversight support. Ohio has local mechanisms for regulating public ambulance services (which tend to be fire-based) and the state EMS office regulates private services.



chase or intercept paramedic units operated by the three counties. These ALS units respond in conjunction with the BLS transport units.”

The DEMSOC 2022 annual report provides the following data regarding Delaware’s emergency personnel and agencies:

- 1,112 Certified First Responders.
- 1,752 EMT-Basics.
- 318 Paramedics.
- 107 Dispatchers.
- 8 Medical Directors.
- 168 BLS ambulances providing 911 services.
  - 58 BLS ambulance agencies.
- 99 BLS ambulances providing non-emergency services.
- 22 Full Time & 8 Part Time ALS units providing 911 services.
- 5 ALS Supervisor units.
- 4 Air Medical helicopters providing 911 services.
- 5 ALS agencies providing non-emergency services.
- 2 Specialty hospital transport services.

As mentioned, the Fire Commission has authority over BLS elements that include licensing and oversight of EMTs and EMRs. The State Fire School is an approved training provider for EMTs and EMRs. The Office of Emergency Medical Services, under DHSS’s Division of Public Health, has oversight of ALS services but also employs EMS medical direction in the form of eight medical directors. A BLS medical director provides support to the Fire Commission.

The Office of Emergency Medical Services has medical oversight of BLS and ALS systems and reviews both BLS and ALS statewide standard treatment protocols, conducts research and oversight of the state’s EMS quality assurance program, and houses the Delaware Emergency Medical Reporting System (“DEMRS”) which is used by all ALS and BLS providers. The Office of Emergency Medical Services provides the staff support for DEMSOC, a 21-member oversight council, providing support and recommendations for EMS in Delaware.<sup>41</sup>

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<sup>41</sup> Office of Emergency Medical Service website states DEMSOC consist of 20 members, current statute outlines 21 members.

## Finding #7

**The Office of Emergency Medical Services is the agency charged with the review of all organizations providing emergency medical training in the state however, their approval process is unclear. The Fire Commission certifies all issued EMT and EMR certifications and requires all education to be reviewed by their office as well. The review and approval of EMS training should be streamlined and approved by one office. Communication should be improved between the two offices and missing or out of date memorandum of agreement documents should be addressed. The Fire Commission should consider forming a subcommittee with stakeholders to include employees of both offices to discuss current review and approval processes for BLS education.**

The Office of Emergency Medical Services is the agency charged with the review of all organizations providing EMS training in the state, this includes approved training agencies and courses. The BLS education approval function was a topic of discussion and disagreement in the meeting minutes of the Fire Commission's December 2019 meeting.

The current statute under the Office of Emergency Medical Services is not clear on the agency's approval process.<sup>42</sup> The statute directs all organizations providing "emergency medical training programs" to provide "copies of course curricula and schedules of the availability of training courses" to the Office of Emergency Medical Services. The statute is silent on the review and approval process that would follow, and regulations could not be found. Additionally, the Office of Emergency Medical Services section of code includes outdated language referring to an "ambulance attendant." The statute also directs the Office of Emergency Medical Services and EMS provider agencies to:

- Monitor public information and education programs offered by other EMS providers in Delaware.
- All EMS provider agencies shall provide a report on their prevention and education activities conducted during the previous year to the Office by January 15 of each year.
- The Office of Emergency Medical Services shall publish an annual report outlining the status of prevention and public education activities throughout the State by May 15 of each year.

The website for the Office of Emergency Medical Services does not include annual reporting specific to prevention and public education activities offered throughout the state. It is unknown whether this report was published and if this report is still needed. The annual DEMSOC reports include training updates from the State Fire School and Delaware Technical Community College. The report does not include updates and information for other training agencies, or a list of training agencies and courses approved by the Office of Emergency Medical Services.

Additionally, the Office of Emergency Medical Services' website does not provide information regarding review and approval of approved training agencies and courses which provide BLS specific training in Delaware. Education for ALS, which is specific to licensed paramedics, is not within the scope of this review. The process is in cooperation with the Board of Medical Licensure and Discipline under the Division of Professional Regulation.

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<sup>42</sup> 16 Del. C. § 9705.

The Fire Commission validates all issued EMT and EMR certifications and requires all education be reviewed by their office. The Fire Commission statute is silent on BLS training approval. Training standards are mentioned in a few places under Chapter 710 Ambulance Service Regulations:

- 3.0 Definitions:
  - “Delaware Refresher Course” means a course of instruction for re-certification required by the Commission for EMT’s and EMR’s that meets the guidelines of the National Highway Traffic Safety Administration’s (NHTSA) National EMS Education Standards most current curriculum.
  - “Delaware Training Standard For [for] Delaware Emergency Medical Technicians & Emergency Medical Responders” means the most current National Highway Traffic Safety Administration’s (NHTSA) National EMS Education Standards curriculum.
  - “Recertification Training” means a defined curriculum that once completed allows the individual to continue practicing as an EMT or EMR for a specific period of time as determined by the Commission.
- 14.3.3.1.7 A Delaware EMT employed in another state may present a certificate of completion for training credit from an out-of-state refresher program that participates in the NHSTA NCCP program. The EMT will be required to complete the Delaware content under the local section of the NCCP curriculum to complete the required Delaware Refresher for recertification.
- 14.3.4.1 Continuing education classes to achieve re-registration through NREMT shall be approved in accordance with NREMT policy and procedures.

The Fire Commission’s website states, “The list of approved BLS level CPR/AED courses are developed by the Delaware Office of Emergency Medical Services and approved by the Delaware State Fire Prevention Commission.” A PDF document titled; “*State of Delaware CPR/AED Requirements for EMS Certification*” is available that provides the accepted EMS certification courses.

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JLOSC staff requested and received different educational standard standards and process documents from the Fire Commission and the Office of Emergency Medical services. The Fire Commission provided a 21-page document titled; *Emergency Medical Responder and Emergency Medical Technician Level EMS Education Program Administrative Standards and Guidelines, revised January 21, 2020*. The Office of Emergency Medical Services provided a 1-page process document that outlined the following:

*Office of Emergency Medical Services (OEMS) Training Agency process:*

The agency will request to create a new agency for the National Registry

OEMS sends the agency:

- The EMS Education Program Administrative Standards and Guidelines
- A Training Agency Application

The agency completes a Training Agency Application and sends to OEMS for approval.

Once an approved Training Agency:

- Course Request forms (along with Content Outline, Detailed Class Schedule and Course Completion Certificate) are sent to OEMS for approval from the OEMS Training Administrator and the EMS State Medical Director, then is sent to the BLS Administrator at Fire Commission
- Continuing Education Request forms (along with Course Objectives, Course Outline, Post Course Evaluation Tool and Course Completion Certificate) are sent to OEMS for approval from the OEMS Training Administrator and the State EMS Medical Director

It is unclear what kind of information sharing agreements, known as memorandum of agreements (“MOA”) exist for communicating approved training organization. The three following MOAs, which are all more than two-decades old, were provided to JLOSC staff during this review, education provider approval is not covered:

- State Fire Prevention Commission and Delaware Departments of Public Health and Department of Health and Social Services for inclusion and coordination of basic life support services within the statewide trauma system, dated October 1998.
- State Fire Prevention Commission and Delaware Departments of Public Health and Department of Health and Social Services for inclusion and coordination of basic life support data collection within the statewide EMS system, dated March 1999.
- State Fire Prevention Commission and the Delaware Emergency Medical Services Oversight Council to coordinate the transmission of recommendations and responses between the council and the commission, dated May 2000.

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Additionally, review of current statute indicates that at least three MOAs are missing:

- Established between the Office of Emergency Medical Services of the Division of Public Health and the State Fire Prevention Commission to foster inclusion and coordination of Basic Life Support Services within the Statewide Stroke System.<sup>43</sup>
- Established between the Office of Emergency Medical Services of the Division of Public Health and the State Fire Prevention Commission to foster inclusion and coordination of Basic Life Support Services within the Statewide overdose system of care created under § 9710 of this title.<sup>44</sup>
- Established between the Office of Emergency Medical Services, of the Division of Public Health, Delaware State Police, State Fire Prevention Commission, Board of Medical Licensure and Discipline and any other agency serving as a component to the emergency medical services system in compliance with their respective agency's statutory provisions. To foster continuity and program coordination, the Office shall enforce each such memorandum of agreement.<sup>45</sup>

Communication should be improved between the two offices and missing or out of date MOA documents should be addressed.

JLOSC staff recognize that the office staff from the Fire Commission and Office of Emergency Medical Services consist of dedicated employees who genuinely care about BLS care and training within Delaware. However, the process of BLS education review and approval, which includes approving training agencies and courses, needs review and streamlining with one office responsible for review and approval. The Division of Professional Regulation could serve as a source of information since it has 30+ professional licensing boards, most with initial licensing and continuing education requirements. Statute modifications should be made to reflect the current process. The Fire Commission should consider forming a subcommittee with stakeholders from both offices to discuss current review and approval processes for BLS education.

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<sup>43</sup> 16 Del. C. § 9704, Senate Bill 265, 148<sup>th</sup> General Assembly, enacted August 2016.

<sup>44</sup> 16 Del. C. § 9704, House Bill 440, 149<sup>th</sup> General Assembly, enacted September 2018.

<sup>45</sup> 16 Del. C. § 9803, Senate Bill 1, 135<sup>th</sup> General Assembly, enacted January 1990.

## Finding #8

In September 2017, Delaware became the 12<sup>th</sup> state to join the National EMS licensure compact however, Delaware is not integrated with the compact's coordinated database. In July 2022, Pennsylvania became the most recent to join the compact. Regulations and memorandum of understanding agreements need to be created by the Department of Health and Social Services, in collaboration with the Delaware State Fire Commission and the Division of Professional Regulations.

The Recognition of EMS Personnel Licensure Interstate CompAct ("REPLICA")

is the multi-state compact for EMS practitioners.

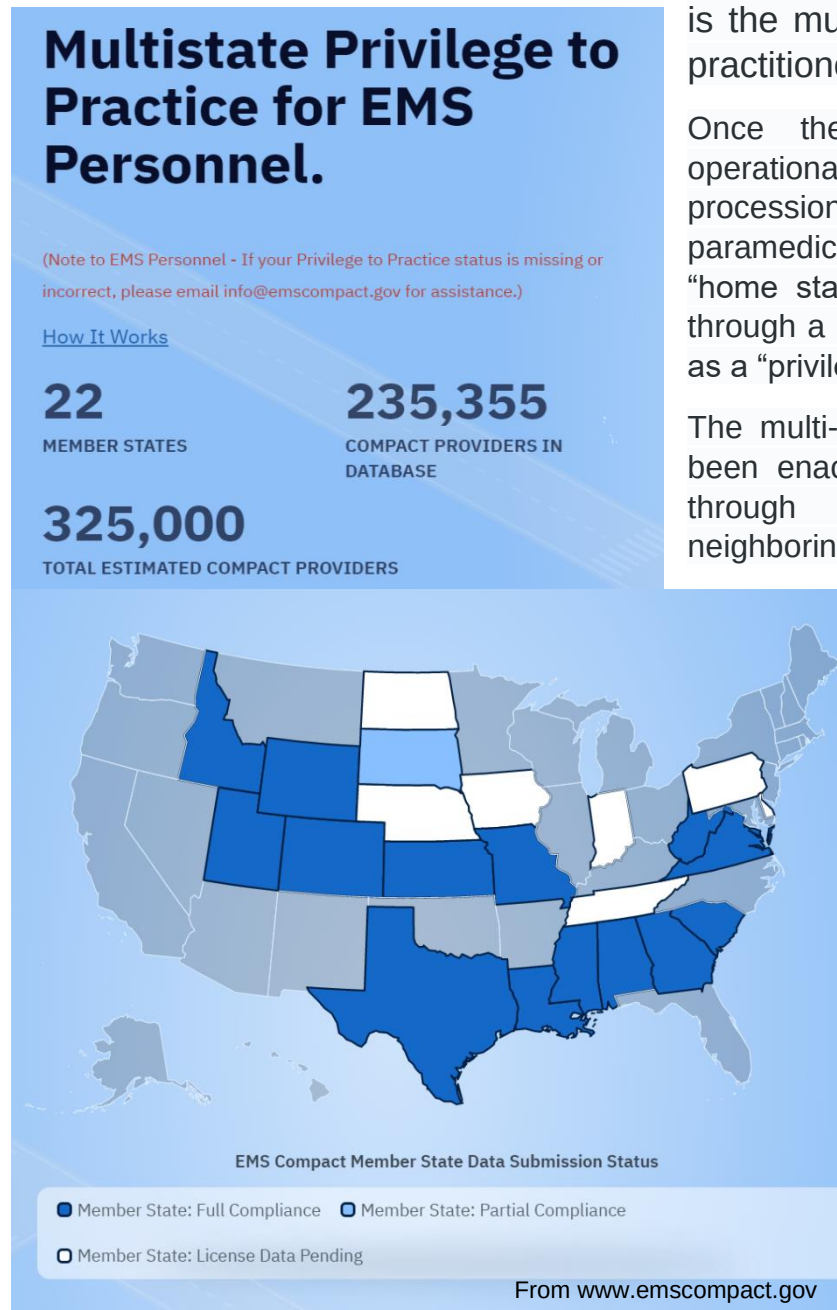
Once the EMS compact is fully operational, licensed EMS professionals, which include EMTs and paramedics, would be able to use their "home state" licensure in other states through a qualified circumstance known as a "privilege to practice."

The multi-state licensure compact has been enacted by a total of 22 states through REPLICA legislation. The neighboring State of Pennsylvania

became the most recent state to sign the legislation in July 2022. Delaware enacted REPLICA legislation five years prior in September of 2017 becoming the 12th state to enact the EMS multi-state licensure compact.<sup>46</sup>

Of the 22 state members, 14 are in full compliance, 1 partial compliance, and 7 have pending license data. Pennsylvania and Delaware fall into the latter category. Pennsylvania is in process of integrating with the National EMS Coordinated Database

("NEMSCD"). Delaware is not integrated with NEMSCD. While a completion date is



<sup>46</sup> Senate Bill 35, 149<sup>th</sup> General Assembly, enacted September 15, 2017.

unavailable, Pennsylvania has a connection to the state license management system in process.

The effective date of Delaware's REPLICA legislation was written to be the date on which the compact statute was enacted into law in the 10th member state. When Delaware's REPLICA legislation was drafted, only seven states had joined REPLICA. Four states joined during Delaware's REPLICA legislative process, making Delaware the 12<sup>th</sup> state to enact the legislation. Therefore, the legislation became effective on enactment. To date, regulations and a memorandum of understanding have not been created as directed by the legislation.<sup>47</sup>

The Department of Health and Social Services, in collaboration with the Delaware State Fire Commission and the Division of Professional Regulations, shall promulgate regulations for implementation of the REPLICA Compact.

The Division of Public Health, the State Fire Commission, and the Division of Professional Regulations shall enter into a memorandum of understanding to identify roles and responsibilities of the partnering agencies under the REPLICA Compact.

To fully enact REPLICA legislation, the Fire Commission will also need to incorporate and recognize the multi-state compact option into EMT licensure.

## **Finding #9**

**In Delaware, creating a minimum education standard for firefighters is a matter of safety. Currently 29 states require some type of training and education for volunteer firefighters.**

In Delaware, education and licensure requirements only exist for EMS personnel. Education requirements ensure the safety of not only the practitioner but also for the human lives the practitioner intends to protect. Firefighters today are navigating more dangers and threats than ever before. Further education will only continue to enhance essential practices to maintain safety.

To date, minimum education standards or best training practices have not been created in Delaware for volunteer or career firefighters. Creating minimum education standards for firefighters would be in the interest of safety, ensuring that all firefighters are equipped with the minimum education required to safely perform their duties. In initially establishing any minimum education standards, firefighters with a determined amount of experience or training could be exempted from any standard created. Continuing education encouragement or requirements should also be explored since the profession is subject to new services, threats, or dangers.

It is important to note that there is a difference between training and education. David C. Denniston explained the difference and the challenges in an article published by the Firefighters Association of the State of New York:<sup>48</sup>

I fear that many of us have forgotten the word “education” in the important process of education and training of our firefighters. The training is the “what” and “how” of

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<sup>47</sup> 16 Del. C. § 9815.

<sup>48</sup> Article available at: [https://fasny.com/magazine\\_articles/the-difference-between-training-and-education-of-firefighters](https://fasny.com/magazine_articles/the-difference-between-training-and-education-of-firefighters)



things we do. ... The education component is the “why” we do what we do, and, more importantly, the logic behind the process. The problem with only doing repetitive training is that it does not prepare our students for the challenging times when something does not go as planned. It does not empower them to deviate from a process when necessary. Education is an important part of the training process that cannot be overlooked, but often falls short of what is needed. One of the challenges is that most instructors will not be an expert in every topic that they need to cover for their department. As instructors, we need to understand this is normal and not a weakness. A good instructor will realize this and figure out how to fill in the gaps with additional resources. There are many sources available for us to fill in the gaps. All we need to do is understand them.

The concept of requiring training for volunteer firefighters is not new. There are many styles of volunteer fire departments and education requirements across the country. Most states depend on volunteer fire departments, with over 50% of fire departments in other states being volunteer or mostly volunteer fire departments.<sup>49</sup> In January 2023, the National Fire Department Registry Summary was released.<sup>50</sup> This document provides data about the number of registered fire departments in each state and what percent of those fire departments consist of volunteers or mostly volunteers.

All state’s volunteer firefighter requirements differ, but common requirements set by volunteer fire departments across the United States include a minimum age (often either 18 or 21 years old), having a driver’s license from the respective state, passing a physical fitness test, and completing residency requirements.

States often have multiple certifications available to complete, such as Firefighter I, Firefighter II, EMT, etc. Many states do not have volunteer firefighter education or training requirements written in their code, but individual stations will have their own set of requirements on top of the general requirements. For example, Vermont’s Division of Fire Safety website states: “Minimum basic firefighter certification requirements for volunteer and call firefighters who work less than 32 hours per week are set by the local authority having jurisdiction, which in most cases is the local fire chief. While many volunteer and paid on-call fire departments require Firefighter I or II certification, there is currently no statutory requirement that sets a minimum level of training.”<sup>51</sup>

Some states may also accept national fire training certifications from the National Fire Academy.<sup>52</sup> As outlined in the following chart, currently 29 states require some type of training and education for volunteer firefighters and 18 states include additional requirements such as an examination. Regardless, every state has some form of fire board, commission, or fire marshal who oversees fire-related issues.

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<sup>49</sup> Florida, Hawaii, and Washington D.C. are the exceptions.

<sup>50</sup> Available at <https://www.usfa.fema.gov/downloads/pdf/registry-summary-2023.pdf>

<sup>51</sup> Available at <https://firesafety.vermont.gov/academy/certification>

<sup>52</sup> National Fire Academy through the U.S. Fire Administration, a division of the Federal Emergency Management Agency (“FEMA”) information available at: [www.usfa.fema.gov/nfa](http://www.usfa.fema.gov/nfa)

# Volunteer Firefighter Training Requirements

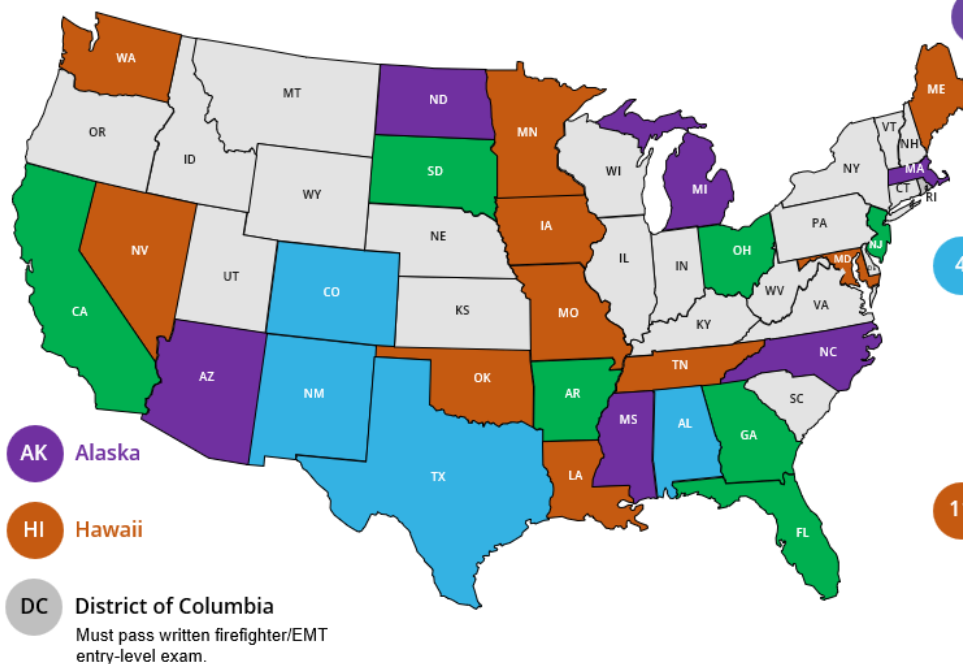


Chart created by JLOSC staff using independent research.

## Finding #10

This review observed few Freedom of Information Act (“FOIA”) compliance issues, Subcommittees and ad-hoc committees created by the Commission do not post meeting announcements, agendas, or minutes however, recent improvements detected. An Advisory Committee on Ambulance Service and State Fire Marshal Advisory Board appear in statute, but memberships consist of only Delaware Volunteer Firefighters’ Association members, which do not use the Public Meeting Calendar, a similar advisory board for the State Fire Prevention Commission was repealed by legislation in September 2021.

The Commission and its subcommittees are public bodies as defined by FOIA.<sup>53</sup> During the course of this review, JLOSC staff reviewed meetings held January 2020 through January 2023 and checked for FOIA compliance on meeting notice, agendas, and minutes. Using FOIA open meeting requirements,<sup>54</sup> the *FOIA Scorecard* below notes the following FOIA compliance items:

- Every meeting must be open to the public, except for valid exception under FOIA.
  - Executive session closed to the public for FOIA named purposes.
- Public notice of regular meetings posted at least 7 days in advance of the meeting.
  - Includes agenda if determined.
    - Posted within 6 hours in advance of the meeting with reason for posting delay included.

<sup>53</sup> 29 Del. C. § 10002.

<sup>54</sup> 29 Del. C. § 10004.

- Posted in public location accessible to the public, including electronic posting on designated State of Delaware website.<sup>55</sup>
  - Includes date, time, and place of meeting.
    - Indicates intent to hold executive session (if applicable).
- Agenda is subject to change, changes may include:
  - Added items, including executive session.
  - Deletion of items, including executive session.
- Minutes recorded and made available for public inspection and copying as a public record. Minutes must include the following:
  - Record of members present.
  - Record by individual members of each vote taken and action agreed on.
- Final minutes posted within 5 working days of final approval.
  - Draft minutes posted within 20 working days of meeting conclusion for public bodies who meet 4 or fewer times per year.

| FOIA Scorecard for January 2020 – December 2022 |           |
|-------------------------------------------------|-----------|
| <b>Total Commission Meetings Held</b>           | <b>36</b> |
| Properly Noticed Meetings                       | 36        |
| Properly Posted Agendas                         | 34        |
| Properly Posted Meeting Minutes (draft)         | NA        |
| Properly Posted Meeting Minutes (final)         | 35        |
| Missing Meeting Notice                          | 0         |
| Missing Agendas                                 | 0         |
| Missing Minutes                                 | 0         |
| Number of Executive Sessions Held               | 3         |
| Minutes Contain Required Information            | yes       |
| Agendas Contain Required Information            | yes       |

JLOSC staff reviewed Delaware’s Public Meeting Calendar for all meetings held by the Commission during the review period (January 2020 – December 2022). The Public Meeting Calendar keeps a record of all administrative actions for a meeting date including announcement creation date and posting dates for agendas and minutes. During the review period, the Commission properly noticed all 36 public meetings held. Agendas and minutes were properly posted on the Public Meeting Calendar, except for two agendas that were posted late for the June 2020 and December 2021 meetings, and final minutes were posted late for the December 2021 meeting.

Since the Commission meets monthly, draft meeting minutes are not required. Meeting minutes reviewed by JLOSC staff contain the required FOIA information of recording votes of individual members and actions agreed on.

JLOSC staff did not locate meeting announcements, agendas, or minutes on the Public Meeting Calendar for most committees or subcommittees formed by the Fire Commission. In early 2023, JLOSC staff observed improvement with a few committees posting on the public meeting calendar.

<sup>55</sup> Designated website is the Public Meeting Calendar: <https://publicmeetings.delaware.gov>

In statute, it was noted that an Advisory Committee on Ambulance Service<sup>56</sup> and the State Fire Marshal's Advisory Board<sup>57</sup> remain in code but do not use the Public Meeting Calendar and are made up entirely of Delaware Volunteer Firefighters' Association members. The State Fire Prevention Commission Advisory Board had the same statutory membership. That statutory requirement was repealed effective September 2021. The Delaware Volunteer Firefighters' Association website lists all three of these committees on its website and includes a membership listing for each. These two remaining committees should be removed from code. If meetings are held by Delaware Volunteer Firefighters' Association advisory boards specific to the Fire Commission, State Fire Marshal, or State Fire School, a brief update on the meeting should be shared with Fire Commissioners and staff.

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<sup>56</sup> 16 Del. C. § 6710.

<sup>57</sup> 16 Del. C. § 6615.

# STAFF RECOMMENDATIONS

## **Recommendation #1, Option 1 – Continue the State Fire Prevention Commission.**

After review and analysis, JLOSC staff recommends Option 1, to continue the State Fire Prevention Commission, subject to further recommendations that JLOSC adopts.

Continue or Terminate (standard JLOSC recommendation).

Option 1: The State Fire Prevention Commission shall continue, subject to further recommendations that JLOSC adopts.

- OR -

Option 2: The State Fire Prevention Commission is terminated, and JLOSC will sponsor legislation to implement this recommendation.

## **Recommendation #2 – Statute Revisions.**

JLOSC should consider sponsoring a bill making technical corrections to the State Fire Prevention Commission’s governing statute, in Chapters 66 and 67 of Title 16. JLOSC and State Fire Prevention Commission staff will work together to develop statutory revisions, and JLOSC staff will engage stakeholders as appropriate.

Using this review as a guide, the bill should revise the relevant provisions of the Delaware Code covering topics such as:

- **Creating a chapter that reflects modern practices and outlines the duties of the Fire Commission office staff, performed under the direction of the Fire Commission appointed executive director.**
  - Consider creating a name for the Fire Commission office staff, such as the Division of Basic Life Support and Fire Regulation.
  - Consider changing the title of the executive director in the Code to director.<sup>58</sup>
- **Updating composition of Governor-appointed Commission members.<sup>59</sup>**
  - Include 1 member certified as an emergency medical technician (“EMT”).
  - Include 1 member of the public.
- **Updating Commission authority relating to Office of the Fire Marshal and State Fire School.**
  - Remove outdated hiring practices that require Commission approval.
  - Capture modern agency management practices by transferring authority to Commission-appointed State Fire School director and State Fire Marshal where appropriate.
  - Include Commission oversight duties of all offices under its direction.
    - Commission approval of all annual reports.
    - Commission sets data sets received at meetings from each office.
- **Updating annual financial audit language to reflect current process.<sup>60</sup>**
  - Current regulations define the process not as an audit, but as an annual “financial data analysis” completed by an independent certified public accounting firm at a minimum “review” level.
  - Commission will still retain authority to order a full financial audit at its discretion.

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<sup>58</sup> This proposed legislation is not intended to include an adjustment in compensation. Compensation adjustments and considerations follow an annual budget process, which is separate from JLOSC review process. This statute modification would adjust the job title in the Delaware Code to accurately reflect the role and duties of the position.

<sup>59</sup> 16 Del. C. § 6602.

<sup>60</sup> 16 Del. C. § 6608.

- **Updating outdated advisory committee references.**
- **Updating Incident Review Committee.**
  - Include reference to the Statewide Basic Life Support (BLS) Quality Assurance and Quality Improvement Committee found in regulations, if appropriate.
- **Removing the outdated term, “ambulance attendant,” throughout Delaware Code.**<sup>61</sup>
- **Adding the term, “Emergency Medical Responders.” throughout Delaware Code where appropriate.**
- **Update definitions for frequently used actors, such as “volunteer firefighters” and “volunteer fire departments.”**
- **Updating Basic Life Support (“BLS”) education review and approval.**<sup>62</sup>

### **Recommendation #3 – Update Regulations.**

The State Fire Prevention Commission shall consider revising their regulations to do the following:

- **Create certification process for volunteer firefighter members, which identifies who receives criminal background check results.**
  - Include a process for volunteer fire department membership appeals.
  - Determine if this should include career firefighters.
- **Create conduct standards for firefighters and fire companies.**
- **Create educational standards for firefighters.**
- **Create equipment standards for fire companies.**
- **Create complaint and investigation process for firefighter and fire companies.**
  - Include possible disciplinary measures.
  - Determine if this includes career firefighters.
- **Create process to review firefighter injuries.**
  - Identify data collection process.
- **Establish a new, separate chapter for EMT and EMR regulations.**
  - Revise EMT complaint and investigation process to reflect current processes.
  - Review and revise licensure process for EMTs and EMRs.
    - Include language from National Registry that issues certifications for 3 years when issued between July 1 and December 31.
- **Update annual financial review requirements to incorporate the recommendations of the 2017 legislative task force as documented in Recommendations for Reporting and Compliance located in Appendix G of the 2018 final report.**
  - Consider applying further updates based on review of current requirements and procedures.
- **Gender neutralize language in regulations.**
- **Promulgate regulations to implement the REPLICA Compact in collaboration with the Department of Health and Social Services and the Division of Professional Regulations.**

<sup>61</sup> Referenced in at least 11 different sections, in Titles 16 and 21.

<sup>62</sup> Collaborate with JLOSC staff and Office of Emergency Medical Services on updating the statute on BLS.

## **Recommendation #4 – Administrative Updates.**

The State Fire Prevention Commission shall consider:

- **Updating the mission statement of the State Fire Prevention Commission to include Basic Life Support.**
  - Current mission statement on the Commission's website states: "The State Fire Prevention Commission is charged with the protection of life and property from fire for the people of Delaware and to oversee the operation of the Delaware State Fire Marshal's Office and the Delaware State Fire School."
- **Including the process and procedure for the Volunteer Ambulance Company Fund on the Commission's website.**
- **Developing and publishing a commissioner's handbook to provide onboarding and guidance to appointed commissioners. Suggested topics include:**
  - Overview of the Freedom of Information Act and the Administrative Procedures Act.
    - Ensure all created committees or subcommittees adhere to FOIA requirements.
  - Commissioner's conduct and ethics.
  - Hearing conduct and procedure.
  - Office and employee structure and duty overview for the 3 offices under the oversight of the Fire Commission.
  - Overview of certification requirements, complaint, and disciplinary process for each certification type.
  - Confidentiality agreement.
- **Exploring Commissioner and staff educational opportunities.**
  - Include overview of specific completed training activities for Commissioners and office staff in annual report.
- **Review available training and resources dedicated to financial management for volunteer fire and ambulance companies.**
  - Consider creating OnDemand training and resources available on the Fire Commission or State Fire School websites.
- **Review annual financial review requirements and procedures.**
  - Determine expectations and goals.
    - Based on discussions, determine if the type of annual financial analysis and frequency should be adjusted.
  - Review available financial educational resources.
  - Review Commission staffing needs to process annual reviews.
  - Update Commission website to include *Recommendations for Internal Control Best Practices* from the 2017 task force final report.
  - Consider offering remedial training to volunteer fire and ambulance companies found in noncompliance of Commission's annual financial review requirements.
- **Review BLS training approval and processes.**
  - Work with the Office of Emergency Medical Services to streamline and improve this process.
- **Updating Memorandum of Agreements as identified in this report.**
  - Work with applicable agencies to develop needed agreements.

## **Recommendation #5 – Release from Review.**

Release the State Fire Prevention Commission from review upon enactment of legislation under Recommendations 2.





STATE OF DELAWARE  
**STATE FIRE PREVENTION COMMISSION**  
DELAWARE FIRE SERVICE CENTER

(302) 739 – 3160  
FAX (302) 739 – 4436

1463 CHESTNUT GROVE ROAD  
DOVER, DELAWARE 19904

May 15, 2023

Joint Legislative Oversight & Sunset Committee  
Legislative Council, Division of Research  
411 Legislative Avenue  
Dover, DE 19901

Dear Chair, Vice-Chair, and Honorable Members of the Committee:

The State Fire Prevention Commission (the Commission) sincerely appreciates the work of the Joint Legislative Oversight and Sunset Committee (JLOSC) Staff and has reviewed their findings and recommendations. We also thank you for the opportunity to address the function and growth of the Commission.

We welcome and value your input and have determined that your findings contained in the Report are accurate portrayals of the current structure and responsibilities as they relate to the Commission.

As an example, although not an exhaustive list, we are offering the following comments with regard to the recommendations:

- Finding #4 – Annual “auditing” requirement. The Commission has held two meetings with the State Auditor’s Office to begin developing a better working relationship with a third meeting scheduled on May 31, 2023. The Commission has suggested creating an MOA to develop a sharing of information agreement between the agencies.

The Commission agrees with the JLOSC staff findings and the need to review and update SFPC Regulation 708. The Commission will also benefit from the addition of an Administrative Accountant on staff to assist with regulation review, reviewing information collected in the fire company reviews or audits.

- Finding #5 – Statutory Finding 6-c: Regarding verification of EMT certifications. The SFPC is currently creating a new certification and licensing program. Our programmer is working with DTI to support our needs and meet the fire wall requirements. This project should be completed this year which will bring Delaware closer to meeting the needs of the Compact licensing requirement.

Statutory Finding 6-d: The SFPC Compliance and Investigative Division will contact the Division of Professional Regulations to request a meeting with us to discuss their case management, policies, and procedures. This will assist our Investigators with having a better knowledge of their state procedures.

Statutory Finding 15-g: The Commission is not a partner in House Bill 127 as referred to in the JLOSC Report. This legislation was supported by the Delaware Volunteer Firefighter Association. The Commission would like to gain statutory support that they would be notified if any legislation is submitted with an impact on the Delaware EMS and/or Fire Service.

Statutory Finding 19: The Commission by statute updates an annual list of BLS ambulance organizations in Delaware. We accept the recommendation to separate the list of organizations into “Primary” (Fire Company/Volunteer), “Secondary” (Private), and “Bariatric”.

Statutory Finding 23a: The Commission understands the recommendation to add the ambulance fund distribution methodology to the agency website and annual report.

- Finding # 7 – The Commission agrees that it will be beneficial to streamline the approval process for EMS Training Agencies, class courses, and classes by one agency. They are currently approved by both the Office of Emergency Medical Services and the Commission. The Commission is supported by a BLS Administrator, Educators of the Delaware State Fire School, and a BLS Medical Director. It is not necessary for the Office of Emergency Medical Services to be part of this approval process. It is redundant. It is agreed that both agencies need to update their sharing agreements.
- Finding #9 – The Commission added minimum education and training standards for firefighters in House Bill 193 in 2022. The Commission would appreciate support from the JLOSC to create legislation to require firefighter certification in Delaware.
- There is a reference to an “Incident Review Committee” and a “Quality Assurance Committee” in the Report as the same committee. These are two separate committees. The Commission will support legislation to remove “Incident Review Committee” from statute because it is no longer a viable committee. Its purpose was replaced by the hiring of Investigator positions and the creation of the Compliance/Investigative Division. The Quality Assurance

Committee has not been an active committee due to lack of staffing. The Commission added a BLS Administrator position in 2023. This position is a major step for the agency by allowing a single point of contact for the service in topics related to “Basic Life Support”. This position has been tasked with upholding the quality assurance regulations statewide throughout the fire and private ambulance service. Updated statistical findings will be listed in our annual report each year.

- Firefighter Injuries – The Fire Commission has developed Regulation 709 updates to include the development of a firefighter injury team. This regulation update became effective May 11, 2023. The Compliance/Investigative Division have worked out policies and procedures surrounding these investigations. The Commission needs fiscal support in supplying the team with needed equipment to conduct the investigations and for their own personal protection.
- Recommendation #5 – The Commission would also request the Committee release the Commission from review upon enactment of legislation under Recommendations 2.

This is not an exhaustive list, but merely a highlight of the Report findings and recommendations. The Commission concurs with your findings and recommendations and look forward to working with you to implement legislation to meet the needs of our growing responsibilities as an agency. We are an agency that has grown quickly with vast responsibilities. Our ultimate goal is to round off the agencies needs by creating an EMS Division, Fire Division, Administrative and Mental Health Division, and a Compliance/Investigative Division. This goal will meet the need to support our emergency responders and protect our citizens. We take a great deal of pride in supporting the EMS and Fire Service and are grateful for the support of our legislators in taking the time to not only hear our request but support us as you are able.

Thank you for considering our recommendations.

Respectfully,

*Sherry Lambertson*

Sherry Lambertson  
Executive Director

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## APPENDIX F

### Recommendations for Internal Control Best Practices

#### **Officers/Board of Directors**

- The roles and responsibilities of each position should be documented and a copy provided to each member upon being elected or appointed to a position.

#### **Committees**

- Committees should be established to assist in the oversight of business processes such as budgeting, investing, fundraising, hall rentals, etc.

#### **Budgetary Accounting Software**

- It is highly recommended that the software program used be one that is easy to learn and widely recognized so that help and assistance materials are available from a variety of sources.
- If your agency does not have this type of software, consider QuickBooks.

#### **Budget**

- A Budget Committee should be established and assigned the responsibility of developing the annual budget.
- The budget should account for all areas of income and expense, and provide enough detail for appropriate analysis of responsibility areas such as:
  - Administrative
  - Utilities
  - Trustees – Building, etc.
  - Vehicles – maintenance and operation
  - Firefighting – equipment and supplies
  - Ambulance – equipment and supplies
  - Social Hall
  - Entertainment
  - Debt
- The annual budget should be reviewed and approved by the Board of Directors and/or Company membership.

**Bank Accounts**

- All bank accounts (including certificates of deposit (CD), petty cash, investment, and savings accounts) shall have at least two authorized signers.
- Bank statements should be mailed directly to the Company.
- If account activity is conducted online, at least two (2) authorized individuals, who are not related, should have access and separate login credentials.
- All accounts should be reviewed and updates to authorized signers should be made at least annually.

**Investments**

- An Investment Committee should be established and assigned the responsibility of monitoring all investment accounts.
- The Investment Committee should provide monthly reports that consist of at least a Balance Sheet which shows the current fair market value, and/or a Profit and Loss Statement which shows gains and losses for the month.

**Transfers**

- The transfer of funds between accounts should be approved by the Board of Directors and/or Company membership and recorded in the minutes.
- A signed and authorized Transfer Form should be completed when the transfer is initiated.

**Loans and Commitments**

- No member of the Company is permitted to obligate the Company unless expressly approved by the Board of Directors and/or Company membership.

**Capital Assets**

- A record of all buildings, vehicles, equipment, and repairs should be maintained and reviewed/updated annually by the Board of Directors.
- All capital assets should be recorded and depreciated in the accounting software/program.

**Inventory**

- Purchases and shipments should be compared to receipts or purchase orders to ensure that all items were received.
- Logs for equipment or capital assets should be updated when new items are received.
- Fuel logs should be maintained for all vehicles and, if applicable, reconciled to fuel or credit card transactions.

**Checks**

- All checks must be signed by two (2) authorized unrelated individuals.
- Signature stamps should not be used.
- Blank checks should be stored in a secure location, such as a lock room or drawer, and access limited to only those with check writing responsibilities.

### **Credit Cards**

- Credit cards should not allow for cash withdrawals.
- Issuance of credit cards should be limited to only those members and officers with a legitimate business need, such as:
  - Fire Chief
  - President
  - Vice President
  - Secretary
  - Other roles assigned the responsibility of purchasing
- Card limits should be set based on the role each cardholder.
- Receipts for purchases should be turned in to the Treasurer or Financial Secretary and be accompanied by a Purchase Order, or similar purchase tracking form, and include a description of the purchase, its intended use/purpose, and the budget account the purchase was made from.

### **Debit Cards**

- Debit cards should not be used or issued.

### **Purchases**

- Purchase limits should be established which require advanced approval from the Board of Directors and/or Company membership for purchases exceeding that limit (*ie*; \$3,000.00).
- Support should be maintained for all expenditures (*ie*; invoices, receipts, purchase orders, approvals/authorizations, etc.), and reconciled to the monthly statements.

### **Cash Advances/Reimbursements**

- Cash advances should be limited, but if determined necessary, they should be approved by the Board of Directors and recorded in the minutes.
- Authorizations/approvals and support documentation (*ie*: receipts, invoices, etc.) should be obtained for all cash advances or reimbursements.

### **Payroll**

- Documentation should be maintained on all employees and include IRS Forms I-9 and W-4, as well as any additional annual tax forms.
- Payroll transactions should be recorded each pay period.

### **Outside Contractors**

- 1099 Forms should be issued to any contractors or other persons paid by the Company that is not an employee of the Company.

### **Reconciliations**

- All bank statements and credit card statements should be reviewed and reconciled monthly by at least one (1) authorized individual who is not an authorized signer.

## **Reporting**

- The Treasurer shall provide a monthly report to the Board of Directors and/or Company membership to include at least:
  - Reports of Income and Expense with comparison to Budget
  - Copy of Bank Statements
  - Copy of Bank reconciliation approved by authorized reconciler
  - Listing of all transactions processed in accounting period

## **Revenues/Billing**

- Cash receipts should be deposited in a timely manner.
- Separate individuals should be responsible for making and recording deposits.
- Income should be recorded to the appropriate budget account.
- Billing accounts should be reviewed monthly to ensure that amounts received have been deposited.

## **Insurance**

- The Company should purchase insurance policies to protect itself against losses.
- The purchase of insurance policies that specifically cover fraud, theft, and embezzlement is highly recommended.



## APPENDIX G

### Recommendations for Reporting and Compliance

1. Review level report is provided and reviewed by State Fire Prevention Commission annually.
2. Those reviewing the report submissions must receive training and education on interpreting the reports and then deciding the best course of action.
3. If the report contains any recommendations, the Commission can then decide to accept the report, or require an Agreed-Upon Procedures (AUP) or Opinion Audit be performed.
4. If an AUP is required, the procedures will be provided by the State Auditor.
5. The fire company has 30 days from the date of notification by the State Fire Prevention Commission of additional audit requirements to provide the contact information of the auditor or firm that will be performing the audit. If not provided, the Commission will then hire a firm to perform the audit at the cost of the fire company.
6. The State Fire Prevention Commission has the right to recommend State monies be withheld from any fire company that does not comply with the reporting requirements.

## APPENDIX H

February 2, 2017

The Delaware State Fire School (DSFS) continues to provide and has provided over the years a number of programs that address the management of a fire company. These include programs that address both the management of personnel and financial management. Previous classes included the Fire Company Management Series. Classes included budget and planning, communications, conducting meetings, and managing people. These programs were replaced with the National Fire Academy Leadership series programs. Currently, the Fire Officer Programs include budget development, the budget process, policies and procedures of administrative duties, purchasing process and the development of a company budget.

After a review of the recommendations for Internal Control Best Practices, the State Fire Prevention Commission and the Delaware State Fire School feel that the recommendations are vital to the operation of a Fire Company, or any company. This would provide the necessary information in one program, allowing DSFS current programs to continue as written. For those companies that currently have policies and procedures in place, the program would serve as a review and provide the necessary training for newly elected officers to fully understand the financial operations of their company and the information they could expect to receive.

The State Fire Prevention Commission and the Delaware State Fire School recommend the following for the development and delivery of a program:

### **Internal Control Best Practices**

**Objective:** To provide the Elected and Appointed Officers of a Delaware Fire Company a detailed understanding of their roles, responsibilities, and to ensure that proper procedures are established ensuring the proper financial management of the Company.

**Audience:** Elected or Appointed Officer of a Fire Company

**Length of lesson:** Three Hours

**Location:** Scheduled at the three DSFS Divisions in January yearly.  
Offered in-service (at a requesting Company's Station)

**Instructor:** Fire Service II Instructor with a background and knowledge of financial operations.  
An individual with a background as an auditor, CPA, or a Company Financial Officer.

**On-line offering:** After an initial offering in a classroom session provide as an on-line class.

The Delaware State Fire School will develop in the Student Record Keeping System a method of indicating that a person attended the Internal Control Best Practices Program and date attended. Included will be attendance record of last refresher class attended. This information will be able to be provided in report form, from information in the Training Recognition Program area.

Also a report could also be run at the company level indicating members attending the training over a specified period.

Included in the initial program will be handouts to support the teaching points.

- A checklist of the recommended best practices.
  - This checklist would allow the President, Treasurer and other officers to review the company's current operation and identify strengths and areas requiring improvement.
  - This checklist could be completed, signed and filed with the review report yearly with the State Fire Prevention Commission.
- A list of recommended accounting software.
  - Recommended training for users of software.
- Investments
  - Additional training recommendations on how to select and work with an investment firm.
- Payroll
  - Additional information for those companies who perform their own payroll.
- Outside Firms for Payroll and/or Accounting activities
  - A list of best practices and information expected from the firm
  - Having the requirements in writing with the firm.
- Recommendations for the use of Purchase Orders
  - How to make this work recommendations.

After approval, the Delaware State Fire School will develop the program within 60 days and pilot the program within an additional 60 days. By the 2017 Conference, a preview of the program will be available to the Delaware fire service for full offerings beginning October 1, 2017. The 2018 course schedule will reflect the course offerings at DSFS beginning in January 2018.

**Part VI  
Safety**

**Chapter 66  
Fire Prevention**

**Subchapter I**

**State Fire Prevention Commission**

**§ 6601. Objectives.**

The objective of the State Fire Prevention Commission, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this chapter, from unsafe practices.

(77 Del. Laws, c. 444, § 4.)

**§ 6602. State Fire Prevention Commission — Appointment; qualifications; cause for removal; term of office; members to serve without compensation.**

(a) The State Fire Prevention Commission shall consist of 7 commissioners as follows: 3 representatives of business and industry to include one from each county to be appointed by the Governor; 3 Delaware volunteer firefighters to include one from each county to be appointed by the Governor; and the immediate past president of the Delaware Volunteer Firefighters' Association.

(b) The Firefighter Commissioners shall be recommended to the Governor by each Delaware Volunteer Firefighters' Association County President of the county in which the expired term or vacancy exists within 60 days prior to the expiration of a Commissioner's term or within 30 days following a vacancy. Each recommendation shall include 3 nominees and any and all necessary information required by the Governor regarding the nominee's qualifications to serve as a Commissioner.

(c) Business and industry Commissioners shall have knowledge in the areas of the Commission's jurisdiction and be employed within an industry regulated by or under the authority of the Commissioner.

(d) Commissioners may be removed by the Governor for continued neglect of the duties required by this chapter, or for refusal to act, misconduct, incompetency, or other sufficient cause. Missing 3 consecutive meetings shall presumptively be neglect of duty for purposes of this section.

(e) Commissioners shall be appointed to serve 4-year terms and shall not serve more than 3 terms to ensure that the terms of no more than 2 Commissioners expire in 1 year.

(f) Commissioners shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(g) No Commissioner, while serving on the State Fire Prevention Commission, shall be an officer of any kind (president/chairperson, president-elect, vice president, secretary, board of directors, or treasurer) of any state or county volunteer firemen's association, including but not limited to, the Delaware Volunteer Firefighter's Association, or any professional board, commission, or trade association, or union representing an industry or service regulated by the State Fire Prevention Commission. No Commissioner shall hold a politically elected or appointed position.

(16 Del. C. 1953, § 6601; 49 Del. Laws, c. 335; 52 Del. Laws, c. 5, § 1; 63 Del. Laws, c. 381, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 444, § 4; 83 Del. Laws, c. 143, § 1.)

**§ 6603. State Fire Prevention Commission — Organization and meetings.**

(a) The Commission shall elect a Chairperson and Vice Chairperson from among its Commissioners and shall hold regular meetings at least once a month. Special meetings may be called by the Chairperson, by the Vice Chairperson in the absence of the Chairperson, or by 3 Commissioners.

(b) No business shall be transacted by the Commission in the absence of a quorum which shall be 4 Commissioners, 1 of which must be the Chairperson or Vice Chairperson.

(16 Del. C. 1953, § 6602; 49 Del. Laws, c. 335; 52 Del. Laws, c. 5, § 1; 63 Del. Laws, c. 381, § 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 444, § 4; 83 Del. Laws, c. 143, § 2.)

**§ 6604. State Fire Prevention Commission — Powers and duties.**

The State Fire Prevention Commission shall have authority to:

(1) Formulate rules and regulations, with appropriate notice to those affected; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act (Chapter 101 of Title 29) of this State. The State Fire Prevention Commission shall consult and confer with the duly elected officers of the Delaware Volunteer Firefighter's Association and the Delaware State Fire Chief's Association in developing and drafting proposed regulations relating to paragraph (15), (16), or (17) of this section prior to publishing the proposed regulations pursuant to § 10115 of Title 29.

a. Such regulations shall be in accordance with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection and shall have the force and effect of law in the several counties, cities and political subdivisions of the State. Whenever such regulations and amendments require the issuance of permits or licenses, the State Fire Prevention Commission is authorized to issue such permits or licenses according to the provisions and schedules in § 6612 of this title. Such regulations and amendments shall not apply to existing installations, plants or equipment unless the State Fire Prevention Commission has duly found that the continuation thereof constitutes a hazard so inimicable to the public welfare and safety as to require correction; nor shall such regulations and amendments limit or prohibit the shipment, transportation, handling or storage incident to transportation of any explosive, combustible or other dangerous article in solid, liquid or gas form by rail, water or highway, when such articles are in conformity with regulations of the Interstate Commerce Commission; nor shall such regulations, insofar as they purport to prohibit the sale, purchase or domestic use of gasoline, kerosene or other fuel burning home appliances for heating or cooking apply to any person whose personal faith or belief prevents the use of any alternative heating or cooking appliance recommended by the State Fire Prevention Commission, the burden of proof is upon the person claiming relief from such regulation. In their interpretation and application the regulations promulgated under this chapter shall be held to be the minimum requirements for the safeguarding of life and property from the hazards of fire and explosion. Whenever the provisions of any other statute or local regulation are more stringent or impose higher standards than are required by any regulations promulgated under this chapter, such statute or local regulation shall govern, provided they are not inconsistent with the state Code and are not contrary to recognized standards and good engineering practices.

b. Promulgate regulations consistent with the following language: The State Fire Marshal shall require that all persons involved in the inspection and testing of water-based fire protection systems maintain current certification in the National Institute for Certification in Engineering Technologies (NICET II) "Inspection and Testing of Water-based Systems" certification program or a substantially similar and equivalent course of instruction, as determined by the State Fire Marshal, as a condition of permit renewal after July 1, 2010.

c. Promulgate regulations consistent with the following language: The State Fire Marshal shall require that persons involved in the inspection and testing of water-based fire protection systems shall complete 16 contact hours of continuing education or similar course of instruction during each biennial period of renewal. Any and all continuing education requirements completed pursuant to paragraph (1)b. of this section may be used to meet the continuing education requirements as called for under this section.

(2) Create a State Fire Prevention Commission Executive Director. The position will be exempt and will be effective October 10, 2021. The Executive Director shall provide the Commission all of the following:

- a. Reports and data necessary to enable the Commission to perform its duties under this title.
- b. Coordination and implementation of all requirements for Commission meetings, including posting meeting notices and minutes.
- c. Necessary reports and data in conjunction with the Commission's responsibilities.
- d. Support to Commission members in necessary training and preparation to fulfill their roles and responsibilities.
- e. Service as the Commission's point of contact.
- f. Production and posting of minutes for each Commission meeting.
- g. Oversight of the day-to-day operations of the agency.
- h. Management of the support staff of the agency.

(3) Appoint a person qualified by that person's previous training and experience in endeavors similar to those herein prescribed as State Fire Marshal.

(4) Appoint a person qualified by that person's previous training and experience in endeavors similar to those described herein as the State Fire School Director.

(5) Conduct hearings and issue orders in accordance with procedures established pursuant to this chapter and Chapter 101 of Title 29. Where such provisions conflict with this chapter, this chapter shall govern.

(6) Issue subpoenas for named respondents, witnesses, documents, physical evidence or any other source of evidence needed during the investigation of a complaint made under this chapter and/or for a public hearing on the complaint or for an appeal to the State Fire Prevention Commission from an order or decision of the State Fire Marshal. If the party or person subpoenaed fails to comply, the State Fire Prevention Commission may compel compliance with said subpoena by filing a motion to compel in the Superior Court which shall have jurisdiction. The Superior Court may order costs, attorney's fees and/or a civil fine not to exceed \$1,000 if the motion to compel is granted.

(7) Acquire any real or personal property by purchase, gift or donation and have water rights.

(8) Make contracts and execute instruments necessary or convenient.

(9) Undertake by contract or contracts, or by its own agent and employees, and otherwise than by contract, any project or projects, and operate and maintain such projects.

(10) Accept grants of money or materials or property of any kind from a federal agency, private agency, county, city, town, corporation, partnership or individual upon such terms and conditions as the grantor may impose.

(11) Impose any civil penalty or fine authorized under this chapter.

(12) Impose reasonable fees for all certifications issued by the Commission under this chapter or Chapter 67 of this title. All fees issued under this section must be based on actual costs, unless otherwise specifically authorized by other provisions of this title.

(13) Impose substance abuse evaluation and treatment by third-party vendors in lieu of imposing discipline upon respondents within the jurisdiction of the Commission.

(14) Administer the volunteer firefighter tuition reimbursement program pursuant to § 3467 of Title 14.

(15) Hear and resolve complaints and grievances concerning issues between fire companies.

(16) Hear and resolve complaints and grievances concerning claims of official misconduct by firefighters and fire companies.

(17) Investigate injuries to firefighters incurred in the line of duty, to issue subpoenas in furtherance of such investigations, and to issue reports of its findings and conclusions with respect to such investigations.

(18) Perform all acts and do all things necessary or convenient to carry out the power granted herein.

(16 Del. C. 1953, §§ 6603-6604; 49 Del. Laws, c. 335; 50 Del. Laws, c. 469, § 1; 52 Del. Laws, c. 5, § 1; 57 Del. Laws, c. 672; 57 Del. Laws, c. 727; 63 Del. Laws, c. 381, § 3; 68 Del. Laws, c. 408, § 1; 76 Del. Laws, c. 330, §§ 1-3; 77 Del. Laws, c. 444, § 4; 83 Del. Laws, c. 143, § 3; 83 Del. Laws, c. 181, § 2; 83 Del. Laws, c. 374, § 1.)

### **§ 6605. State Fire Prevention Commission Advisory Board [Repealed].**

(77 Del. Laws, c. 444, § 4; repealed by 83 Del. Laws, c. 143, § 4, effective Sept. 10, 2021.)

### **§ 6606. Annual report; financial statement and budget.**

(a) The State Fire Prevention Commission shall annually, on or before September 30, transmit to the Governor a full report of its proceedings under this chapter and such statistics as it may wish to include therein. It shall also recommend any amendments to the law which in its judgment shall be desirable.

(b) Along with the annual report, the State Fire Prevention Commission shall transmit a financial statement showing all expenditures and income of the State Fire Prevention Commission covering the preceding 12 months, starting July 1 and ending June 30.

(c) In the even-numbered years the State Fire Prevention Commission shall submit to the Budget Commission a budget showing proposed expenditures for the biennium beginning July 1 next succeeding.

(d) The State Fire Prevention Commission shall be given the authority to reimburse volunteer fire companies which incur extraordinary expenses, an amount not to exceed the amount specified in the annual appropriations act, upon request from a volunteer fire company. An "extraordinary expense" under the provisions of this section shall be defined as an expense for which a volunteer fire company would not normally prepare for in its company budget and is not covered by said company's own private insurance.

(16 Del. C. 1953, § 6612; 52 Del. Laws, c. 5, § 1; 73 Del. Laws, c. 309, § 3; 77 Del. Laws, c. 444, § 4.)

### **§ 6607. Power of State Fire Prevention Commission to authorize new fire companies or substations; resolve boundary disputes; and prohibit cessation of necessary fire protection services.**

(a) The State Fire Prevention Commission, with the advice of the Advisory Board set forth in § 6605 [repealed] of this title, is empowered to promulgate, amend and repeal regulations related to the exercise of State Fire Prevention Commission powers and responsibilities defined in this section.

(1) Except as provided in subsection (c) of this section, the State Fire Prevention Commission shall determine whether any new fire companies or substations shall be authorized in any part of the State. In making such determination the State Fire Prevention Commission shall consider among other things the ability, financial or otherwise, of the company seeking authorization to maintain an effective fire company and the fire protection needs of the area involved. The State Fire Prevention Commission, however, shall not authorize the establishment of a new fire company main station or substation within 4 miles of an existing fire company's main station or substation unless the State Fire Prevention Commission determines that an existing company is not reasonably equipped, manned, organized, financed or disciplined to deliver, or is not actually delivering, adequate fire protection in accordance with recognized safety standards to the area it serves.

(2) Except as provided in subsection (c) of this section, the State Fire Prevention Commission shall have authority to prohibit the suspension of fire protection services in this State by any fire company or substation thereof when the ability, financial or otherwise, of the company or substation seeking to suspend such service does not warrant such suspension. In making this determination the State Fire Prevention Commission shall consider, among other things, the fire protection needs of the area involved, whether the company or substation seeking to suspend fire protection services is inadequately financed, equipped, manned, organized or disciplined, and whether a new fire company should be authorized to deliver fire protection services to the area.

(3) The State Fire Prevention Commission shall have authority, acting on behalf of the State, to enter into agreements to confirm the established geographical boundaries of areas served by all existing fire companies in the State and to resolve boundary disputes between or among such fire companies.

(4) The State Fire Prevention Commission shall have authority to enter binding orders resolving boundary disputes between fire companies.

(b) The Delaware Volunteer Firefighters' Association shall designate from its members a 9-member advisory board to advise and make recommendations to the State Fire Prevention Commission in connection with the Commission's responsibilities under this section. The Delaware Volunteer Firefighter's Advisory Board shall consist of the President, First Vice-President, Second Vice-President and the 7 members of the Board of Directors, excluding the immediate past President who serves as a Commissioner, of the Delaware Volunteer Firefighters' Association.

(c) Paragraphs (a)(1) and (2) of this section shall not be applied with respect to any fire company in municipalities with a population greater than 50,000 as established in the official 1980 federal census.

(16 Del. C. 1953, § 6619; 55 Del. Laws, c. 149; 63 Del. Laws, c. 381, § 4; 68 Del. Laws, c. 437, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 378, § 1; 77 Del. Laws, c. 444, § 4; 83 Del. Laws, c. 143, § 4.)

### § 6607A. Injunctive relief.

The State Fire Prevention Commission may in its discretion bring an action in the Delaware Court of Chancery to temporarily restrain or enjoin any act or practice which constitutes a violation of an order of the State Fire Prevention Commission or of any provision of this chapter and to enforce compliance with any order of the State Fire Prevention Commission or provision of this chapter.

(63 Del. Laws, c. 381, § 5; 77 Del. Laws, c. 444, § 4.)

### § 6608. Audits of volunteer fire and ambulance companies.

(a) The State Fire Prevention Commission shall promulgate regulations requiring financial audits of volunteer fire and ambulance companies and the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad. The regulations shall include, but not be limited to, specifying the required types of audits, the reporting periods, procedures for reviewing the audits and the processes to be followed in the event a company fails to submit or submits an inadequate audits.

(b) The State Fire Prevention Commission shall have the authority, after a hearing, to impose a civil penalty not to exceed \$100 against any volunteer fire and ambulance companies, the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad that fails to comply with any regulation promulgated pursuant to subsection (a) of this section. Each day a violation continues may be deemed a separate offense in the State Fire Prevention Commission's discretion. However, in no event shall the total penalties exceed \$5,000 per reporting period.

(c) The State Fire Prevention Commission shall have the authority, in addition to any other authority provided by law, after consulting with the State Auditor of Accounts, to require additional audits and enforce compliance with any regulation or order relating to financial audits of any volunteer fire and ambulance company, the Smyrna and Georgetown American Legion Ambulances and the Mid-Sussex Rescue Squad as follows:

(1) To require an organization to procure the services of 1 or more certified public accountants certified under the laws of the State to audit the organization's accounts for any fiscal year or years as the State Fire Prevention Commission may deem appropriate, with the costs to be paid by such organization being audited. In the event any organization fails to secure the services of a qualified accountant within 30 days following any request made pursuant to this subsection, the State Fire Prevention Commission shall authorize the State Auditor of Accounts to procure a certified public accountant to perform the audit and assess the costs to such organization.

(2) The scope and procedures for any audit mandated in accordance with paragraph (c)(1) of this section shall be determined by the State Auditor of Accounts.

(3) Demand that the State Treasurer withhold any funds allocated and not previously released to an organization under any current or future Grant-in-Aid Appropriation Act of the State to the organization to the extent necessary to satisfy any unpaid penalties and costs assessed to such organization by the State Fire Prevention Commission.

(4) Demand that the State Treasurer withhold any funds allocated and not previously released to an organization under any current or future Grant-in-Aid Appropriation Act of the State to an organization until such a time as the organization complies with any accounting requirement, regulation or remedial measure issued by the State Fire Prevention Commission.

(5) Report evidence of criminal activity to the Attorney General.

(d) The penalties specified in this section are in addition to and not in lieu of any other penalties provided for under this chapter.

(76 Del. Laws, c. 243, § 1; 77 Del. Laws, c. 444, § 4; 81 Del. Laws, c. 226, § 1.)

### § 6609. Appeals to the State Fire Prevention Commission — Procedure.

(a) Appeals to the State Fire Prevention Commission may be taken by any person aggrieved by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies, based upon or made in the course of the administration or enforcement of this chapter. Appeals to the State Fire Prevention Commission may be taken by any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof affected by an order or decision of the State Fire Marshal, or the Marshal's Deputy or Deputies, in the course of the administration or enforcement of this chapter.

(b) Appeals by any person aggrieved by an order or decision of the State Fire Marshal, the Marshal's Deputy or Deputies, or Assistant State Fire Marshals based upon or made in the course of the administration or enforcement of this chapter or local regulations incorporating the State Fire Prevention Commission Regulations shall be taken to the State Fire Prevention Commission. Appeals by any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof affected by an order or decision of



the State Fire Marshal, or the Marshal's Deputy or Deputies or Assistant Fire Marshals, in the course of the administration or enforcement of this chapter or local regulations incorporating the State Fire Prevention Commission Regulations shall be taken to the State Fire Prevention Commission.

(c) The time within which such appeal must be made and the effect, form or other procedure relating thereto shall be as specified in regulations promulgated by the State Fire Prevention Commission following notice and public hearings as provided in § 6604 of this title.

(16 Del. C. 1953, § 6608; 52 Del. Laws, c. 5, § 1; 53 Del. Laws, c. 423, § 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 183, § 1; 77 Del. Laws, c. 444, § 4.)

### **§ 6610. Appeals to the State Fire Prevention Commission — Powers upon appeals.**

Upon appeals the State Fire Prevention Commission shall have the following powers:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the State Fire Marshal, or the Marshal's Deputy or Deputies, based on or made in the enforcement of this chapter;

(2) To hear and decide, in accordance with any duly adopted regulation, requests for special exceptions or for interpretation of regulations or for decisions upon other special questions upon which the State Fire Prevention Commission is required by any regulation to pass;

(3) To authorize a variance from particular provisions of the regulations duly promulgated under § 6604 of this title where strict compliance with such provisions would entail practical difficulties or unnecessary hardships, provided such relief may be granted without substantial detriment to the public safety and without substantially impairing the intent and purpose of the regulations promulgated under § 6604 of this title;

(4) All decisions, authorizations or interpretations made by the State Fire Prevention Commission hereunder shall be written and signed by the Chairperson or Vice-Chairperson and filed in the office of the State Fire Marshal, or the Marshal's Deputy or Deputies, within 30 days following the appeal.

(16 Del. C. 1953, § 6609; 52 Del. Laws, c. 5, § 1; 53 Del. Laws, c. 423, § 4; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 444, § 4.)

### **§ 6611. Court review of decision of State Fire Prevention Commission; procedure.**

(a) Any person jointly or severally aggrieved by any decision of the State Fire Prevention Commission made in the exercise of its appellate function under §§ 6609 and 6610 of this title, or in exercise of its authority decertifying, suspending or otherwise disciplining an emergency medical technician (EMT) under § 6712A of this title, or any officer, department, board or bureau of the State and the several counties, cities and political subdivisions thereof may appeal the final order of the State Fire Prevention Commission to the Superior Court within 30 days of service, or of the postmarked date of the copy of the decision mailed to the party aggrieved by the decision. Upon such appeal the Superior Court shall hear the evidence on the record. Stays shall be granted in accordance with § 10144 of Title 29.

(b) Costs shall not be allowed against the State Fire Prevention Commission unless it shall appear to the Superior Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

(16 Del. C. 1953, § 6610; 52 Del. Laws, c. 5, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 54, § 2; 77 Del. Laws, c. 444, § 4.)

## **Subchapter II**

### **State Fire Marshal**

### **§ 6612. State Fire Marshal — Term, salary, duties, powers and responsibilities.**

(a) The State Fire Marshal shall reside in Delaware after appointment. The State Fire Marshal shall receive such salary as may be set by the State Fire Prevention Commission within the limits set by the annual appropriation to the State Fire Prevention Commission. The State Fire Marshal shall devote their whole time to the duties of the State Fire Marshal's office. Whenever a vacancy shall occur in the office of State Fire Marshal for any reason other than the expiration of a term, the vacancy shall be filled by the State Fire Prevention Commission for the balance of the unexpired term. The State Fire Marshal shall be appointed for a term of 4 years and such term shall be renewable in the discretion of the State Fire Prevention Commission.

(b) The State Fire Marshal, with the consent and approval of the State Fire Prevention Commission, shall appoint all authorized personnel pursuant to Merit System rules and regulations and administer the usual oath as required. Salaries of all personnel to include appropriate position classifications, upgrading and promotions shall be in compliance with Chapter 59 of Title 29.

(c) The Fire Marshal of any political subdivision of this State, having such an office duly created by ordinance or resolution before January 1, 1959, shall serve as an Assistant State Fire Marshal. Within the limits of the said political subdivision, the Fire Marshal shall have exclusive jurisdiction exercising the duties and powers of the State Fire Marshal but the Fire Marshal shall serve without compensation.

(d) The State Fire Marshal, with the consent and approval of the State Fire Prevention Commission, shall employ or acquire such office and clerical employees as may be necessary for the orderly administration of Marshal's office. The State Fire Marshal shall acquire such equipment, furniture, supplies and paraphernalia as may be necessary for the orderly administration of Marshal's office.

(e) The State Fire Marshal, the State Fire Marshal's Deputy or Deputies, and other members of the State Fire Marshal's office, in addition to their salaries, shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(f) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall enforce all laws and ordinances of the State and the several counties, cities and political subdivisions thereof having to do with:

- (1) Prevention of fires;
- (2) The storage, sale and use of any explosive, combustible or other dangerous article in solid, liquid or gas form;
- (3) The installation and maintenance of equipment of all sorts intended for fire control, detection and extinguishment;
- (4) The means and adequacy of exit, in case of fire, from buildings and all other places in which numbers of persons work, live or congregate from time to time for any purpose, except buildings used wholly as dwelling houses containing no more than 2 families;
- (5) The suppression of arson.

(g) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall assist any chief of any recognized fire company upon request of such chief.

(h) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall enforce the regulations promulgated by the State Fire Prevention Commission as authorized by § 6604 of this title.

(i) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall require the administrative heads of public and private schools and educational institutions to have at least 1 fire drill each month when said schools are in session and to keep all doors and exits unlocked during school hours.

(j) The State Fire Marshal, or the Marshal's Deputy or Deputies, shall inspect all state- and county-owned institutions, all schools, theatres, churches and other places of public assembly as to fire exits and reasonable safety standards and report the Marshal's findings and recommendations to the proper administrative heads.

(k) The State Fire Marshal, or the Marshal's Deputy or Deputies, may at any time investigate as to the origin or circumstances of any fire or explosion occurring in the State and may at all reasonable hours enter any building or premises within the Marshal's jurisdiction for the purpose of making an inspection or investigation, which, under this chapter, they may deem necessary to be made.

(l) (1) The State Fire Marshal or the Marshal's designee shall review all plans and specifications, with the exception of those political subdivisions having exclusive jurisdiction under subsection (c) of this section for conformance to the requirements of subsections (f) and (j) of this section, prior to actual construction for:

- a. All new buildings and additions; for any building undergoing a change in occupancy; or any part of a building suffering damage from fire, explosion, or any other cause; with the exception of buildings used wholly as dwelling houses containing no more than 2 families and buildings used wholly for farming purposes.
- b. Alarm systems, fire protection systems, flammable and combustible liquid or gas installation or other miscellaneous installations falling under the State Fire Prevention Rules and Regulations.
- c. Subdivision plans.

(2) The State Fire Marshal is authorized to establish a schedule of plan review fees to be paid by the submitter of the plans reviewed under paragraph (l)(1) of this section, except that no fees shall be charged for projects financed in excess of 50% by state funds, housing developed by an organization exempt from tax under § 501(c)(3) of the federal Internal Revenue Code (26 U.S.C. § 501(c)(3)), and projects financed under Chapters 40 and 45 of Title 31.

(3) The plan review fees shall be based on actual costs with the initial payment being based on the estimated cost of construction of the building, additions, renovation, alarm system, fire protection systems, or flammable or combustible liquid or gas installations or other miscellaneous installations required to be approved and shall not exceed the following schedule:

- a. Seven tenths of 1% on July 1, 2009;
- b. Three tenths of 1% over \$1,000,000 of cost;
- c. With respect to the provisions of paragraphs (l)(3) a. and b. of this section, the minimum fee for any plan review shall be no less than \$150.
- d. The State Fire Marshal must provide a schedule of reduced fees for low life hazard occupancies such as warehouses.

(4) Subdivision plan review fees shall be set at \$150.

(5) The State Fire Marshal, with the approval of the State Fire Prevention Commission, where such regulations or amendments duly promulgated under the authority of the State Fire Prevention Commission require the issuing of a permit, license or certificate, is authorized to issue such permits, licenses or certificates and to establish a schedule of fees not to exceed the following schedule:

- a. A maximum of \$100 per fire alarm signaling system or fire suppression system, where a license is issued under the preceding provision of this section, for wholly owned or proprietary fire alarm signaling systems or fire suppression systems, serviced by the system owner.
- b. A maximum of \$50 for a license to service portable unit fire suppression appliances.
- c. A maximum of \$25 for all other permits, licenses and certifications as required in the State Fire Prevention Regulations.
- d. The fees as authorized in this paragraph shall be the maximum so charged by the State Fire Prevention Commission and every 2 years shall be reviewed by the Department of Finance, the Controller General and the State Fire Marshal.

e. All fees associated with the permitting, licensing, or certification processes shall be annual fees, payable on a date as scheduled by the State Fire Marshal.

(6) It is expressly provided that said fees collected by the State Fire Marshal shall not affect the state appropriation or be deducted there from, but shall be so much additional moneys available for carrying out the provisions of this subsection, and the said fees shall be paid to the State Treasurer for accounting and deposited in a special fund in the State Treasury. Said fees included in this subsection shall not be charged for projects financed in excess of 50% by state funds, and projects financed under Chapters 40 and 45 of Title 31.

(7) The fees as authorized for the plan review process shall be the maximum allowed by the State Fire Prevention Commission and will be a cap, that every 2 years, by September 15, a review shall be conducted by the Director of the Office of Management and Budget, the Controller General and the State Fire Marshal, based upon the revenue experience and the anticipated funding needs of the Technical Services Division of the State Fire Marshal's Office, to revise the fees according to the anticipated funding needs of the State Fire Marshal's Office Technical Services Division, incorporating the plan review, licensing and additional consultative services.

(8) The permit, licensing and plan review fee requirements of this chapter shall not apply to municipalities, towns or other subdivisions of this State or to fire companies that wish to construct improvements upon their fire stations.

(m) The State Fire Marshal, or the State Fire Marshal's Deputy or Deputies, shall have the authority to issue subpoenas in the enforcement of this chapter.

(n) Appeals to the State Fire Prevention Commission from a decision of the State Fire Marshal shall be made in accordance with the provisions of §§ 6609 and 6610 of this title.

(o) The Office of the State Fire Marshal shall have the authority to:

(1) Advise and assist fire companies, municipal corporations and districts, including agencies and departments thereof in developing measures for more effective fire and arson prevention and control;

(2) Assist and encourage cooperative efforts to solve common problems relating to fire and arson prevention and control and to serve as a clearinghouse of information about fire and arson prevention and control, about reported cases of burn injuries or wounds sustained, and about state and federal services available to assist in solving such problems;

(3) Employ or contract with individuals, agencies or corporations to assist fire companies, municipal corporations and districts in the development of an arson investigation program or in the investigation of cases of suspected arson or cases of burn injuries or wounds sustained upon the request of such an entity. However, nothing in this provision shall be construed to remove the primary responsibility for arson investigations from appropriate local jurisdictions or agencies;

(4) Establish a burn registry data bank and disseminate information relating to fire and arson prevention and control, reported cases of burn injuries or wounds sustained, and to operate a state fire reporting system. The state fire reporting system shall include a procedure for the identification of patterns of suspicious, accidental or criminal fires and for alerting appropriate state and local authorities. The fire reporting system shall also include fire incident data supplied by local fire agencies in a manner and on forms prescribed by the State Fire Marshal. To the extent practicable, the data shall be collected and maintained in a form compatible with information collected by other Delaware agencies, other states and the federal government. The State Fire Marshal shall cooperate with the Division of State Police, Insurance Department, local police, fire and health agencies, the insurance industry and other appropriate organizations in maintaining such system.

(16 Del. C. 1953, §§ 6606, 6607; 50 Del. Laws, c. 469, § 1; 52 Del. Laws, c. 5, § 1; 53 Del. Laws, c. 189; 53 Del. Laws, c. 423, §§ 1, 2; 56 Del. Laws, c. 340, § 1; 60 Del. Laws, c. 551, § 1; 64 Del. Laws, c. 336, §§ 1, 2; 65 Del. Laws, c. 474, § 1; 68 Del. Laws, c. 408, §§ 2-10; 69 Del. Laws, c. 283, § 1; 69 Del. Laws, c. 291, § 273; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 149, § 1; 75 Del. Laws, c. 88, § 21(8); 77 Del. Laws, c. 76, §§ 1-4; 77 Del. Laws, c. 444, § 4.)

### **§ 6613. Reports from insurance companies; reports of investigations by State Fire Marshal.**

(a) Each fire insurance company or association doing business in this State shall, within 30 days after the adjustment of any loss sustained by it, report to the State Fire Marshal, upon forms furnished by it, such information regarding the amount of insurance, the value of the property insured and the amount of claim as adjusted, as in the judgment of the State Fire Marshal it is necessary for the State Fire Marshal to know. This report shall be in addition to any such information required by the Insurance Commissioner.

(b) Upon the request of the owner or insurer of any property destroyed or injured by fire or explosion, or in which an attempt to cause a fire or explosion may have occurred, the State Fire Marshal, upon approval of the Attorney General's office, may make a written report to the person requesting the same of the result of the examination made by the State Fire Marshal regarding the property.

(16 Del. C. 1953, § 6620; 56 Del. Laws, c. 82; 77 Del. Laws, c. 444, § 4.)

### **§ 6614. Maintenance of fire hazard, violations of regulations or chapter; burn injuries and wounds to be reported; enforcement; remedies and penalties.**

(a) No person shall erect, construct, reconstruct, alter, maintain or use any building, structure or equipment or use any land in such a way to endanger life or property from the hazards of fire or explosion or in violation of any regulation or any provision of or any change thereof promulgated by the State Fire Prevention Commission under the authority of this chapter.

(b) Whoever recklessly violates such regulations, provisions or change or any provision of this chapter, with the exception of exceeding the posted occupant load in a place of assembly as outlined in subsection (c) of this section, shall be fined not more than \$100 or imprisoned not more than 10 days or both.

(c) Whoever negligently violates the regulation of exceeding the posted occupant load in a place of assembly, as defined in the Delaware State Fire Prevention Regulations, shall be fined at least \$10 but not more than \$100 per person exceeding the posted occupant load as determined by the State Fire Marshal.

(d) Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance or use continues after knowledge or official notice that same is illegal shall be deemed a separate offense.

(e) In case any building, structure or equipment is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used in such a way to endanger life or property from the hazards of fire or explosion or in violation of this chapter or of any regulation or provision of any regulation or change thereof promulgated by the State Fire Prevention Commission under the authority granted by this chapter, the State Fire Prevention Commission, the State Fire Marshal or the Attorney General may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

(f) Every case of a burn injury or wound, where the victim sustained second or third degree burns to 5 percent or more of the body and/or any burns to the upper respiratory tract with laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported to the Office of State Fire Marshal. The State Fire Marshal shall accept the report and notify the proper investigatory agency. The report shall be provided to the Office of the State Fire Marshal within 72 hours of the initial treatment. The report shall be made by:

(1) The physician attending or treating the case; or

(2) The manager, superintendent or other person in charge, whenever such case is treated in a hospital or other health-care facility.

The intentional failure to make such report is a class A misdemeanor.

(g) The State Fire Marshal, or the Marshal's Deputy or Deputies, may make arrests of persons violating offenses under this section or of persons violating any of the laws of this State relating to fires or burning.

(h) Justices of the Peace shall have jurisdiction over offenses under this section.

(i) All moneys derived from a violation of subsection (c) of this section shall be placed in a special fund to be used by the State Fire Marshal to carry out the provisions of this chapter. Fines that are a result of violations of this chapter that occur within the jurisdiction of the jurisdictional Fire Marshals shall be placed in a separate special fund to be used in that jurisdiction to carry out the provisions of this chapter.

(16 Del. C. 1953, § 6611; 52 Del. Laws, c. 5, § 1; 55 Del. Laws, c. 169; 55 Del. Laws, c. 170; 70 Del. Laws, c. 186, § 1; 74 Del. Laws, c. 34, §§ 1-3; 74 Del. Laws, c. 350, §§ 1, 2; 77 Del. Laws, c. 444, § 4.)

### § 6615. State Fire Marshal's Advisory Board.

For the purpose of advising and making recommendations to the State Fire Marshal in connection with any matters relating to the State Fire Marshal, there is hereby created the State Fire Marshal's Advisory Board. The Advisory Board shall be comprised of 6 members appointed by the Delaware Volunteer Firefighters' Association. Two members shall come from New Castle County, 2 from Kent County and 2 from Sussex County. Each member of the Advisory Board shall serve at the pleasure of the Delaware Volunteer Firefighters' Association. The Advisory Board shall choose a Chairperson and shall meet thereafter at the call of the Chairperson of the Advisory Board, or the State Fire Marshal.

(16 Del. C. 1953, § 6618; 54 Del. Laws, c. 318, § 1; 65 Del. Laws, c. 246, § 1; 65 Del. Laws, c. 400, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 378, § 1; 77 Del. Laws, c. 444, § 4.)

### § 6616. Protection of records.

Any and all records and reports compiled by the State Fire Marshal's office resulting from the State's Juvenile Fire Setter Intervention Program, including, but not limited to, case histories, interviews and findings, shall be considered confidential and privileged and shall not be disclosed directly or indirectly to anyone other than Family Court, the Attorney General and the Deputy Attorneys General and the employees of the State Fire Marshal's office in the discharge of their official duties. Such records and reports shall not be subject to the Freedom of Information Act pursuant to Chapter 100 of Title 29 and shall not be subject to any subpoena powers of any court.

(69 Del. Laws, c. 395, § 1; 77 Del. Laws, c. 444, § 4.)

## Subchapter III State Fire School

### § 6617. Location; supervision; purposes.

There is established in the Dover area a state institution known as the Delaware State Fire School. The Delaware State Fire School shall be under the supervision and control of the State Fire Prevention Commission to effectuate the following purposes:

(1) To provide firefighters and first responders with needed professional instruction and training at a minimum cost to them and their employers;

(2) To develop new methods and practices of fire fighting;

(3) To provide facilities for testing fire fighting equipment;

(4) To disseminate information relative to fires, techniques of fire fighting and other related subjects to all interested agencies and individuals throughout the State;

(5) To undertake any project and engage in any activity which in the opinion of the Fire Prevention Commission will serve to protect the public safety.

(16 Del. C. 1953, § 6613; 54 Del. Laws, c. 318, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 444, § 4.)

### **§ 6618. State Fire Prevention Commission's powers and duties.**

(a) The State Fire Prevention Commission shall have complete jurisdiction over the Delaware State Fire School and is vested with full power and authority:

(1) To adopt rules and regulations necessary for the governing of said institution;

(2) To appoint a Director to run the daily operations of the Delaware State Fire School and to employ or acquire such other instructors, office and clerical employees as may be necessary.

(3) To have full management, possession and control of the lands, buildings, structures and property belonging thereto;

(4) To approve the courses of study of the institution;

(5) To approve the rules and regulations for the admission of trainees to said institution;

(6) To visit and inspect said institution and every department thereof, including any and all accounts and records;

(7) To approve all necessary budgets of expenditures for the enlargement, proper furnishings, maintenance, support and conduct of said institution;

(8) To build, construct, change, enlarge, repair and maintain any and all buildings or structures of said institution that may at any time be necessary for said institution;

(9) To purchase and acquire all lands and property necessary for same, of every nature and description whatsoever;

(10) To care for and maintain the same and to do and perform every other matter or thing requisite to the proper management, maintenance, support and control of said institution necessary or requisite to carry out fully the purpose of §§ 6617-6623 of this title, and for raising it to and maintaining it at the proper efficiency and standard as required in the interest of public safety.

(b) The State Fire Prevention Commission shall be permitted to conduct any live burn operation at the Delaware State Fire Service Center, including the New Castle and Sussex Divisions, necessary to carry out the purposes and duties of this chapter, notwithstanding any other provision of the Delaware Code, any county or municipal ordinance or any rules or regulations prohibiting the same to the contrary.

(16 Del. C. 1953, § 6614; 54 Del. Laws, c. 318, § 1; 66 Del. Laws, c. 145, § 1; 77 Del. Laws, c. 444, § 4.)

### **§ 6619. Director and employees.**

The State Fire Prevention Commission shall employ a Director for the Delaware State Fire School who shall be especially trained and qualified in fire fighting, fire experimental work, and emergency services training or shall have such other qualifications as deemed appropriate by the State Fire Prevention Commission including, but not limited to, educational and administrative experience. The Director shall receive such salary as may be set by the State Fire Prevention Commission within the limits set by the annual appropriation to the State Fire Prevention Commission. The Director shall be appointed for a term of 4 years and such term shall be renewable in the discretion of the State Fire Prevention Commission. The Director with the consent and approval of State Fire Prevention Commission shall appoint all authorized personnel pursuant to the merit system rules and regulations as may be necessary for the orderly administration of the Fire School. Salaries of all personnel, to include appropriate classifications, upgrading and promotions, shall be in compliance with Chapter 59 of Title 29.

(16 Del. C. 1953, § 6616; 54 Del. Laws, c. 318, § 1; 77 Del. Laws, c. 444, § 4.)

### **§ 6620. School attendance fees.**

The Director with the consent and approval of the State Fire Prevention Commission may fix and collect admission fees and other fees that it may deem necessary to be charged for training given, and it is expressly provided that all such fees so collected by the State Fire School shall not affect the state appropriation or be deducted there from, but shall be so much additional moneys available for the operation and maintenance of said institution, and the said fees shall be paid to the State Treasury for accounting and deposit in a special fund in the State Treasury.

(16 Del. C. 1953, § 6615; 54 Del. Laws, c. 318, § 1; 77 Del. Laws, c. 444, § 4.)

### **§ 6621. Liability in the performance of instructional service.**

(a) No full-time or part-time instructor certified, assigned, approved or contracted by the Delaware State Fire School who in good faith provides instructional services shall be liable for any civil damages as a result of issuing such instructions, unless guilty of gross or wilful negligence.

(b) No university, college or medical facility, nor any other entity nor any of its faculty members, participating in good faith as part of an approved Delaware State Fire School training or educational program, shall be liable for any civil damages as a result of any primary or continuing training or educational practice by any enrolled students unless guilty of gross or wilful negligence.

(66 Del. Laws, c. 34, § 1; 77 Del. Laws, c. 444, § 4.)

### **§ 6622. Buildings and equipment.**

The State Fire Prevention Commission shall have the power to prescribe and shall make the necessary rules and regulations for the use of the buildings, equipment and other facilities of the institution when they are not in use for the purpose set forth.

(77 Del. Laws, c. 444, § 4.)

### **§ 6623. Fire School Advisory Board.**

For the purpose of advising and make recommendations to the State Fire School in connection with any matters relating to the State Fire School, there is hereby created the State Fire School Advisory Board. The Advisory Board shall be comprised of 6 members appointed by the Delaware Volunteer Firefighters' Association. Two members shall come from New Castle County, 2 from Kent County and 2 from Sussex County. Each member of the Advisory Board shall serve at the pleasure of the Delaware Volunteer Firefighters' Association. The Advisory Board shall choose a Chairperson and shall meet thereafter at the call of the Chairperson of the Advisory Board or the Director of the State Fire School.

(16 Del. C. 1953, § 6618; 54 Del. Laws, c. 318, § 1; 65 Del. Laws, c. 246, § 1; 65 Del. Laws, c. 400, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 378, § 1; 77 Del. Laws, c. 444, § 4.)

### **§§ 6624,6625. [Reserved.]**

## **Subchapter IV Smoke Detectors**

### **§ 6631. Smoke detectors required.**

(a) Each owner of a residential occupancy, used wholly or in part as a home, residence, dwelling or sleeping place for 1 or more persons, either permanent or transient, including but not limited to any 1-family and 2-family dwelling, mobile home, modular home, townhouse; lodging, rooming or boarding house; hotel, motel, bed and breakfast facility; dormitory, apartment or multi-family dwelling; board and care facility; or a residential occupancy by any other name, be it rented, leased or owned, shall install, within such occupancy, smoke detection devices and/or smoke detection systems, either photo-electric or ionization types, capable of automatically sensing visible or invisible particles or products of combustion, and which activate an alarm sufficiently audible to warn the occupants of the building of an impending danger of fire or hazard to life.

(b) The requirement for the installation of smoke detecting devices and/or smoke detection systems as provided for in this section shall apply to all new and existing occupancies, buildings and/or structures listed in subsection (a) of this section, regardless of when any such occupancy, building or structure was built.

(c) It shall be the responsibility of the owner of a residential occupancy listed in subsection (a) of this section to install and maintain smoke detection devices as required by this chapter, with the following exception: Where there is a tenant of a rented or leased occupancy, structure or building required to have smoke detection devices and/or smoke detection systems, as required in this subchapter, and the rental, lease agreement or contract is for a period of 1 month or more, such tenant shall be responsible for the maintenance of any smoke detection devices, with respect to maintaining an operable battery in the smoke detection device, within the individual rented or leased unit.

(d) All smoke detection devices and/or smoke detection systems which are required to be installed under this subchapter shall be installed in accordance with the applicable provisions of the State Fire Prevention Regulations.

(e) When the standards of the State Fire Prevention Regulations and the building codes change with respect to the number and location of smoke detectors in new construction, such standards shall be the minimum to be utilized for determining compliance with this statute for new construction. A listing of all updated standards and their effective dates shall be maintained in the State Fire Marshal's Office.

(f) It shall not be the duty of a real estate salesperson or broker, licensed under Chapter 29 of Title 24 to verify the compliance of any person or residential occupancy with the provisions of this subchapter.

(69 Del. Laws, c. 170, § 2; 71 Del. Laws, c. 219, § 1; 77 Del. Laws, c. 444, § 3.)

### **§ 6632. Smoke detector installation in 1- and 2-family dwellings; mobile homes; modular homes; townhouses.**

(a) Each 1-family and 2-family dwelling, mobile home, modular home, and townhouse shall have smoke detection devices and/or smoke detection systems installed according to the following requirements:

(1) For each new building or occupancy built after July 8, 1993, smoke detection devices shall be installed in accordance with the provisions of the State Fire Prevention Regulations and the building codes in effect at the time of new construction.

(2) For all buildings or occupancies erected or built prior to July 8, 1993, each required smoke detection device shall be installed outside each sleeping area in the immediate vicinity of the bedrooms and shall be installed on each additional story of the family living unit, including basements, but excluding crawl spaces and unfinished attics, if nothing is stored or kept in such area; but the smoke detection devices in existing buildings or occupancies may be single-station, individual smoke detection devices, approved by Underwriters Laboratories or the Factory Mutual Association, and powered by a monitored battery power supply in accordance with Delaware Fire Prevention Regulations.

(b) Nothing contained in this section shall prohibit the owner of any 1-family or 2-family dwelling, mobile home, modular home or townhouse from installing an inter-connected smoke detection system, hard-wired to the building's electrical system.

(69 Del. Laws, c. 170, § 2; 71 Del. Laws, c. 219, §§ 2, 3; 77 Del. Laws, c. 444, § 3.)

### **§ 6633. Smoke detector installation; other residential occupancies.**

(a) Each lodging, rooming or boarding house; hotel, motel, bed and breakfast facility; dormitory; apartment or multi-family dwelling; board and care facility; or a residential occupancy by any other name shall have smoke detection devices and/or smoke detection systems installed in conformance to the standards of the State Fire Prevention Regulations and the building codes pursuant to the specifications for the individual occupancies or use.

(b) Where there is a conflict between installation requirements, this section shall be interpreted to require the more strict of the installation specifications, for a particular occupancy.

(c) All required smoke detection devices and/or smoke detection systems listed in subsection (a) of this section, except as otherwise specified herein, shall be inter-connected, so that operation of any smoke detection device shall cause the alarm-sounding devices in all smoke detection devices within the building, occupancy or within a separate zoned area to sound; or that will initiate the building fire alarm system to provide an audible warning to all occupants of the building, and all such smoke detection devices and/or systems shall be hard-wired into the electric system of the building, in accordance with the National Electric Code.

(d) With approval of the Fire Marshal, smoke detection devices in individual sleeping rooms may be excepted from the requirement that smoke detection devices be interconnected if such building or occupancy is provided with an automatic smoke detection system in the hallways, corridors or stairwells, or is connected to a building fire alarm system which will activate an alarm which is sufficiently audible to warn the occupants of the building of the impending danger of fire or hazard to life.

(e) For all buildings or occupancies which under subsection (a) of this section are required to install smoke detection devices and/or smoke detection systems, and for such buildings or occupancies that do not have an auxiliary, emergency or back-up power system in accordance with State Fire Prevention Regulations, each smoke detection device or smoke detection system shall utilize the type of smoke detection device that has a built-in battery back-up power supply.

(f) The plans and specifications for all smoke detection devices and/or systems required by this subsection shall be submitted to the State Fire Marshal's Office, prior to installation, for review and approval in accordance with § 6612 of this title.

(69 Del. Laws, c. 170, § 2; 71 Del. Laws, c. 219, § 4; 77 Del. Laws, c. 444, §§ 3, 6.)

### **§ 6634. Smoke detectors; compliance dates.**

(a) For each newly erected or constructed 1-family and 2-family dwelling, mobile home, modular home or townhouse listed in § 6631 of this title, the compliance date shall be July 8, 1993.

(b) For all existing 1-family and 2-family dwellings, mobile homes, modular homes or townhouses listed in § 6631 of this title, erected or constructed prior to July 8, 1993, the compliance date shall be July 1, 1994.

(c) For all other residential occupancies listed in § 6633 of this title, constructed after July 8, 1993, the required smoke detection devices and/or smoke detection systems shall be installed at time of construction.

(d) For all other existing residential occupancies listed in § 6633 of this title, newly erected or constructed prior to July 8, 1993, the compliance date shall be July 1, 1996.

(69 Del. Laws, c. 170, § 2; 77 Del. Laws, c. 444, § 3.)

### **§ 6635. Smoke detectors; penalties for noncompliance.**

(a) Each owner and/or tenant of every building or occupancy required to have smoke detection devices and/or smoke detection systems in accordance with this subchapter, whether an individual or a body corporate, who fails to comply with this subchapter regarding smoke detection devices and/or smoke detection systems, shall be fined not less than \$100 nor more than \$500 for each offense. The Justice of the Peace Courts shall have jurisdiction over any violation of this subchapter.

(b) Anyone who tampers with, damages, destroys or renders inoperative any smoke detection device and/or smoke detection system, shall be fined not less than \$100 nor more than \$500 for each offense. The Justice of the Peace Courts shall have jurisdiction over these violations.

(c) Where a fire department responds to an alarm of any type at a building or occupancy required to have smoke detection devices and/or smoke detection systems as required by this subchapter or by the State Fire Prevention Regulations, and such building does not have

a functional, working smoke detection device and/or the smoke detection system is not operable, is not in service, or is not installed or maintained as required by this chapter or by the State Fire Prevention Regulations; or the Fire Marshal's Office becomes aware of such building or occupancy, the State Fire Marshal's Office shall have authority to investigate. The State Fire Marshal may issue a summons, where necessary, to the owner and/or occupant of such building or occupancy, for an appearance in the nearest Justice of the Peace Court.

(d) Each fine specified in this section of this title shall be remitted to the State Fire Marshal's Office in accordance with § 6612 of this title, which provisions shall be complied with in implementing the requirements of this chapter. All receipts shall be used to subsidize the costs of providing a greater public awareness of the ramifications of not having smoke detectors; and to provide smoke detection devices, where possible and/or permissible, for 1-family and 2-family dwellings, mobile homes, modular homes or townhouses, where enforcement action takes place with respect to the owner and/or occupant of the 1-family and 2-family dwelling, mobile home, modular home or townhouse.

(e) In the enforcement of this subchapter with respect to smoke detection devices and/or smoke detection systems, where the fines are collected within the jurisdictions of the cities of Wilmington, Newark, Dover or New Castle, such fines shall be remitted to the appropriate political subdivision, and shall be utilized for the purposes stated in subsection (d) of this section.

(f) The State Fire Marshal's Office shall be the state-wide manager and agency for all public awareness programs generated by the proceeds of the fines collected under this section.

(g) With the exception of subsection (f) of this section, where any reference is made to the State Fire Marshal or the State Fire Marshal's Office, such reference shall be interpreted to also apply to the Assistant State Fire Marshals of the cities of Wilmington, Newark, Dover and New Castle for the enforcement actions of these provisions.

(h) The State Fire Marshal or the Attorney General may, in addition to other remedies provided by this section, institute injunction, mandamus, abatement or any other appropriate action or actions or proceedings to prevent any continued violations of this chapter.

(69 Del. Laws, c. 170, § 2; 77 Del. Laws, c. 444, §§ 3, 5.)

### § 6636. Exceptions; claims of negligence.

Failure to comply with this subchapter shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication arising out of any injury or death arising from a fire or the direct consequences of a fire; nor shall failure to comply with this subchapter be admissible as evidence in any trial of any civil action or insurance claim adjudication.

(69 Del. Laws, c. 170, § 2; 77 Del. Laws, c. 444, § 3.)

### § 6637. Fire Detection Fund.

(a) This section shall be referred to as the "Delaware Fire Detection Fund."

(b) A special fund of the State is hereby created to be known as the "Delaware Fire Detection Fund." All moneys, including gifts, bequests, grants or other funds from private or public sources specifically designated for the Delaware Fire Detection Fund shall be deposited or transferred to the Fire Detection Fund. Moneys in the Delaware Fire Detection Fund may be saved and deposited in an interest bearing savings or investment account. Interest or other income earned on the moneys in the Delaware Fire Detection Fund shall be deposited or transferred into the Delaware Fire Detection Fund. The Delaware Fire Detection Fund shall not lapse or revert to the General Fund.

(c) Moneys from the Delaware Fire Detection Fund shall be expended for the purpose of providing hard-wired smoke detectors with battery back up to Delaware residences lacking fire detection devices; provided, however, any moneys received from State-appropriated funds shall only be used for owner-occupied residences. Any moneys derived from private sources may be used for any Delaware residences. Any moneys derived from private sources may be used for any Delaware residences.

(d) The State Fire Marshal is authorized to identify and maintain an approved contractor list of licensed master electricians and licensed fire alarm signaling system companies for the purpose of installing hard-wired smoke detectors. The State Fire Marshal will maintain this approved list in each county in order to minimize costs and maximize efficiency consistent with public safety. This approved list will be furnished to those owners identified as lacking fire detection devices as outlined in subsection (c) of this section.

(e) The State Fire Prevention Commission is authorized to adopt rules and regulations necessary to administer the program in accordance with this section. The State Fire Prevention Commission will establish a priority list to distribute the hard-wired smoke detectors.

(f) The State Fire Marshal shall supervise and administer the program in accordance with any rules and regulations adopted by the State Fire Prevention Commission through the State Fire Marshal's Office Quality Assurance Program.

(g) The objective of the Fund is to ensure the installation of working smoke detectors in every private residence in the State.

(73 Del. Laws, c. 237, § 1; 77 Del. Laws, c. 444, §§ 3, 7-9.)

## Subchapter V False Fire Alarms

### § 6638. Definitions.

As used in this subchapter:



(a) “Alarm Activation Report” means a designated form issued by the State Fire Marshal for use by the Fire Chief indicating the alarm signal was found to be the result of a false alarm.

(b) “Alarm signal” means the activation of a fire alarm signaling system or a fire suppression system that requests a response by a fire department.

(c) “Audible alarm” means any device, bell, horn, or siren which is attached to the interior or exterior of a building, emits a warning signal outside the building and is designed to attract attention when activated by a fire.

(d) “Dispatch center” means a location specifically configured for the primary purpose of providing emergency communications services, public safety answering point services, and dispatch of fire apparatus to emergency situations.

(e) “False alarm” means the activation of a fire alarm signaling system or any audible alarm which results in a response by the fire department and which is not the result of a fire or other emergency.

(1) “False alarm” includes:

a. Negligently or accidentally activated alarm signals; and

b. Alarm signals that are the result of faulty, malfunctioning, or improperly installed or maintained equipment.

(2) “False alarm” does not include:

a. Alarm signals activated by severe weather conditions;

b. Alarm signals activated during the initial 30-day period following new installation; or

c. Alarm signals knowingly activated pursuant to § 1245(1) of Title 11, falsely reporting an incident.

(f) “Fire alarm contractor” means a person or company licensed by the State Fire Marshal’s Office and engaged in installing, maintaining, monitoring, altering, or servicing fire alarm signaling or fire suppression systems.

(g) “Fire alarm signaling monitoring company” means a station or building located remote from the protected premises where fire alarm signals from one or more protected premises are received and from where, upon receipt of such signal, a dispatch center is notified.

(h) “Fire alarm signaling system” means an automatic or manual fire alarm or fire suppression system in accordance with the State Fire Prevention Regulations. For the purpose of this legislation, “fire alarm signaling system” does not include typical household single-station smoke detectors in 1- and 2-family dwellings.

(i) “Fire chief” means the fire chief or officer in charge of the responding fire department.

(j) “Monitored system” means the process by which a fire alarm signaling monitoring company receives signals from a fire alarm system and notifies the dispatch center.

(k) “Owner” means any person who owns the premises where the fire alarm signaling system or fire suppression system is installed or the person or persons who lease, operate, occupy, manage the premises, or are bound by the contract for services provided by the fire alarm signaling monitoring company.

(l) “Premises” means any building or structure where a fire alarm signaling system is installed.

(74 Del. Laws, c. 21, § 1; 77 Del. Laws, c. 444, § 3.)

### § 6639. Initial installation requirements.

(a) Upon the installation of a new fire alarm signaling system, the fire alarm contractor shall furnish the owner with written operating instructions and training to enable the owner to use the fire alarm signaling system properly. The fire alarm contractor shall notify the owner of the provisions of this chapter and of the State Fire Prevention Regulations upon completion of the installation of the fire alarm signaling system.

(b) A “Record of Completion” form, designated by the Office of the State Fire Marshal, containing owner and system information shall be submitted by the fire alarm contractor to the State Fire Marshal for all new fire alarm signaling systems.

(74 Del. Laws, c. 21, § 1; 77 Del. Laws, c. 444, § 3.)

### § 6640. Fire alarm signaling monitoring companies.

(a) All fire alarm signaling monitoring companies are responsible for directing the call reporting the fire alarm signal to the appropriate dispatch center, and for providing the dispatch center with accurate location information.

(b) All fire alarm signaling monitoring companies shall maintain a current contact list of 3 representatives or designees of the owners of which 1 will respond to the premises within 30 minutes to assist the fire department in gaining access to the building. The fire alarm signaling monitoring company shall have current contact information for each representative or designee of the owner. The contact list must be updated on an annual basis.

(c) Where an owner is unable to provide a minimum of 3 representatives or designees who can respond within 30 minutes, in accordance with subsection (b) of this section, a lock box containing keys for fire department access shall be provided as specified in the State Fire Prevention Regulations.

(d) A \$100 civil penalty will be charged if an owner fails to provide either a minimum of 3 representatives or designees who can respond within 30 minutes or a lock box approved by the Office of the State Fire Marshal.

(e) A \$100 civil penalty shall be charged each time a fire alarm signaling monitoring company violates a provision of this section.

(f) For a fire alarm system installed in a single-family dwelling, the fire alarm contractor is responsible to solicit an updated contact list on an annual basis from the owner. It is an affirmative defense if the owner fails to comply with the fire alarm contractor's requests for information.

(74 Del. Laws, c. 21, § 1; 77 Del. Laws, c. 444, § 3.)

### **§ 6641. Testing of fire alarm signaling systems.**

(a) No person shall conduct any test or demonstration of a fire alarm signaling system without first contacting the appropriate fire dispatch center and fire alarm signaling monitoring company. The fire dispatch center and fire alarm signaling monitoring company shall also be contacted when the fire alarm test or demonstration is completed.

(b) A violation of this section shall be punished as follows:

(1) First offense; written warning; no fine.

(2) Second offense: \$100 civil penalty.

(3) Third and subsequent offenses: \$500 civil penalty for each offense.

(c) For purposes of this section, a fire alarm contractor that employs a person who violates this section will be held accountable for the offense.

(d) The offenses will be cumulative for all of the fire alarm contractor's employees who violate this section within a calendar year.

(e) The term "calendar year" shall be January 1, 2004, through December 31, 2004, for the first year and shall be January 1 through December 31 for each subsequent year.

(74 Del. Laws, c. 21, § 1; 77 Del. Laws, c. 444, § 3.)

### **§ 6642. Inspection and maintenance of fire alarm signaling systems.**

(a) The owner shall ensure that the fire alarm signaling system is inspected and tested in accordance with the State Fire Prevention Regulations.

(b) The owner shall ensure that the fire alarm signaling system is maintained per manufacturer's specifications.

(74 Del. Laws, c. 21, § 1; 77 Del. Laws, c. 444, § 3.)

### **§ 6643. Fire alarm activation.**

(a) The owner shall be responsible for the activation of a fire alarm signaling system.

(b) A response to the activation of a fire alarm signaling system shall result when the fire department is dispatched to the premises where the fire alarm signaling system has been activated.

(c) In the event that the dwelling fire alarm system, as defined in NFPA 72, is a Monitored System, the fire alarm signaling monitoring company shall be permitted to verify residential alarm signals prior to reporting them to the dispatch center, provided that the verification process does not delay the reporting by more than 90 seconds.

(d) Upon determining that a false alarm has occurred at the premises, the fire chief will submit an Alarm Activation Report to the State Fire Marshal's Office.

(e) Resetting an alarm panel by any person prior to the fire chief's authorization shall be prohibited, and shall be considered a false alarm if the fire chief cannot determine the cause and nature of the alarm activation.

(74 Del. Laws, c. 21, § 1; 77 Del. Laws, c. 444, § 3.)

### **§ 6644. Excessive false alarms prohibited.**

(a) Owners of a premise protected by a fire alarm signaling system shall not cause more than 3 false alarms within a calendar year.

(b) The State Fire Marshal will record the number of Alarm Activation Reports for each premise.

(c) An owner that is in violation of subsection (a) of this section will be subject to a civil penalty as follows:

(1) Fourth alarm: \$100 civil penalty.

(2) Fifth alarm: \$200 civil penalty.

(3) Sixth and subsequent alarms: \$250 civil penalty for each offense.

(d) The term "calendar year" shall be January 1, 2004 through December 31, 2004 for the first year and shall be January 1 through December 31 for each subsequent year.

(74 Del. Laws, c. 21, § 1; 77 Del. Laws, c. 444, § 3.)

### **§ 6645. Civil penalties and appeals.**

(a) The State Fire Marshal shall assess all civil penalties as outlined in this subchapter.

- (b) All civil penalties will be paid within 30 days of assessment.
  - (c) All moneys derived from the civil penalties shall be placed in the Fire Detection Fund pursuant to § 6637 of this title.
  - (d) An owner or a fire alarm contractor may appeal the assessment of a civil penalty to the State Fire Prevention Commission in accordance with the State Fire Prevention Regulations.
  - (e) The Justice of the Peace Court shall have jurisdiction over all unpaid civil penalties.
- (74 Del. Laws, c. 21, § 1; 77 Del. Laws, c. 444, § 3.)

### Subchapter VI Volunteer Firefighters

#### § 6646. Definitions.

“Member” means a volunteer firefighter of a Delaware volunteer fire department, as certified by the Delaware State Fire Prevention Commission.

(76 Del. Laws, c. 157, § 1; 77 Del. Laws, c. 444, § 3.)

#### § 6647. Membership requirements for volunteer firefighters.

(a) An applicant for membership in a Delaware volunteer fire department who has been convicted of or, had that applicant been charged as a juvenile, adjudicated delinquent of any of the following crimes is prohibited from serving as a firefighter in this State:

(1) A felony involving sexual misconduct where the victim’s failure to affirmatively consent is an element of the crime, such as forcible rape;

(2) A felony involving the sexual or physical abuse of a child or of a person who is elderly or impaired, such as sexual misconduct with a child, sexual exploitation of a child, making or distributing child pornography, incest involving a child, or assault on a person who is elderly or impaired;

(3) A crime in which the victim is an out-of-hospital patient or a patient or resident of a healthcare facility, including abuse, neglect, or theft from or financial exploitation of a person entrusted to the care or protection of the applicant;

(4) Arson in the third, second, or first degree; reckless burning or exploding; cross or religious symbol burning; or any crime in which the applicant intentionally or recklessly started a fire or caused an explosion, or attempted or conspired to do so;

(5) A law of another state, territory, or jurisdiction which is the same or equivalent to the offenses described in paragraphs (a)(1) through (4) of this section.

(b) Membership in a Delaware volunteer fire department must be denied if the applicant has been convicted or, if that applicant was charged as a juvenile, has been adjudicated delinquent of any of the following crimes, except in extraordinary circumstances:

(1) Any crime for which the applicant is currently incarcerated, on work release, on probation, or on parole;

(2) Any crime in the following categories, unless at least 5 years have passed since the applicant’s conviction or at least 5 years have passed since the applicant was released from custodial confinement, whichever occurs later:

a. A serious crime of violence against a person, such as assault with a dangerous weapon, aggravated assault, murder or attempted murder, manslaughter (other than involuntary manslaughter), kidnapping, or robbery of any degree;

b. A crime involving a controlled substance or designer drug, including unlawful possession or distribution of, or intent to unlawfully possess or distribute, a controlled substance in Schedules I through V of the Uniform Controlled Substances Act of Chapter 47 of this title;

c. A serious crime involving property, such as burglary, embezzlement, or insurance fraud;

d. Any crime involving sexual misconduct;

e. A crime of another state, territory, or jurisdiction which is the same or equivalent to the offenses described in paragraphs (b)(2)a. through d. of this section.

(3) In extraordinary circumstances, membership may be granted under subsection (b) of this section only if the applicant establishes by clear and convincing evidence that the applicant’s membership will not jeopardize public health or safety.

(c) No applicant for membership in a Delaware volunteer fire department shall be charged any fee or cost for obtaining criminal history information from the State Bureau of Identification for the application.

(d) An applicant for membership in a Delaware volunteer fire department who knowingly provides false, incomplete, or inaccurate criminal history information, or who otherwise knowingly violates a provision of this subchapter, is guilty of a class G felony. In addition to a term of imprisonment of up to 2 years, the court shall impose a fine of no less than \$1,000 which may not be suspended.

(e) The State Fire Prevention Commission shall adopt regulations to implement the provisions of this subchapter. The regulations must include, as part of the application form for membership in a Delaware volunteer fire department, a dated and signed statement by the applicant swearing to or affirming the following, if the following is true. If it is not true, the applicant must explain in writing what is not true and why it is not true.

“I have never been convicted of an offense that constitutes any of the crimes set forth in 16 Del. C. § 6647 or any similar offense under any federal, state, or local law. I hereby certify that the statements contained in this application are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statement in this application, I am subject to penalties prescribed by law, including denial or revocation of membership in the volunteer fire department and a mandatory fine of at least \$1,000 or a term of imprisonment of up to 2 years, or both.”

(f) An applicant for membership in a Delaware volunteer fire department who is denied membership or whose membership is revoked because of the requirements of this subchapter may appeal the denial or revocation to the State Fire Prevention Commission within 15 days of written notification of the denial or revocation by the volunteer fire department. An appeal under this subsection must be held in accordance with the appropriate provisions of the Administrative Procedures Act, Chapter 101 of Title 29, and is subject to judicial review under subchapter V of Chapter 101 of Title 29.

(76 Del. Laws, c. 157, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 444, § 3; 78 Del. Laws, c. 179, § 233; 80 Del. Laws, c. 332, § 1.)

### **Subchapter VII**

#### **Delaware Burn Camp**

#### **§ 6648. Delaware Burn Camp Corporation authorization.**

The State Fire Prevention Commission is hereby authorized to incorporate a nonprofit, nonstock corporation known as the Delaware Burn Camp Corporation for the purpose of establishing, administering and operating an overnight camp devoted to helping burned children cope with the emotional and physical issues arising from their injuries.

(77 Del. Laws, c. 16, § 1; 77 Del. Laws, c. 444, § 3.)

#### **§ 6649. Powers.**

The Delaware Burn Camp Corporation shall be empowered, notwithstanding any other laws to the contrary:

- (1) To adopt bylaws to govern the conduct of its affairs and to carry out and discharge its powers, duties and functions as appropriate;
- (2) To enter into contracts and agreements as it may deem necessary, convenient or desirable;
- (3) To plan, finance, develop, construct, purchase, lease, maintain, improve, own, operate or control facilities and such real, personal or intellectual property as it may deem necessary, convenient or desirable;
- (4) To employ such personnel as necessary to carry out its functions;
- (5) To retain, by contract, engineers, advisors, legal counsel and other providers of advice, counsel and services which it deems advisable or necessary in the exercise of its purposes and powers and upon such terms as it deems appropriate;
- (6) To do all acts and things necessary or convenient to carry out its functions and purposes;
- (7) To have and exercise any and all powers available to a corporation organized pursuant to Chapter 1 of Title 8, the Delaware General Corporation Law; and
- (8) To accept appropriations, donations, contributions, grants and loan repayments and to keep such monies in the Corporation's own accounts.

(77 Del. Laws, c. 16, § 1; 77 Del. Laws, c. 444, § 3.)

#### **§ 6650. Board of directors.**

(a) An initial board of directors of the Delaware Burn Camp Corporation shall consist of the members of the Burn Camp Task Force, as established under Senate Concurrent Resolution 38 of the 144th General Assembly, and 1 Commissioner from the State Fire Prevention Commission. The terms of office of the initial board of directors shall expire on April 30, 2011.

(b), (c) [Repealed.]

(d) The chairperson of the board of directors shall be chosen by the members of the board of directors. The board of directors shall adopt bylaws and other procedures needed for the operation and management of the Delaware Burn Camp Corporation and the Burn Camp.

(e) The Delaware Burn Camp Corporation shall determine its own Board of Directors consisting of no less than 13 members, provided the members of the Board of Directors serving on October 26, 2022, shall continue to serve as directors until the end of their term or a vacancy is otherwise created.

(77 Del. Laws, c. 16, § 1; 77 Del. Laws, c. 378, § 1; 77 Del. Laws, c. 444, §§ 3, 10-13; 83 Del. Laws, c. 503, § 1.)

**Part VI  
Safety**

**Chapter 66A**

**Delaware Volunteer Firemen's Pension Plan**

**§ 6651. Definitions.**

(a) "Board" shall mean the Board of Pension Trustees established by § 8308 of Title 29.

(b) "Credited service" shall mean, for any member:

(1) Service as a volunteer after June 30, 1986, that has been certified by the employer; and

(2) Service as a volunteer prior to July 1, 1986, on the basis of 1 year of credited service for each 3 years of service as certified by the employer provided that the member has been actively participating in the organization for the 12 months preceding July 1, 1986.

(c) "Employer" shall mean the participating state volunteer fire departments, ladies auxiliaries thereof and service organizations providing volunteer ambulance services.

(d) "Fund" shall mean the Fund established by § 6661 of this title.

(e) "Member" shall mean an actively-participating volunteer of 1 of the state volunteer fire departments, auxiliaries thereof and service organizations providing volunteer ambulance services.

(65 Del. Laws, c. 269, § 1; 70 Del. Laws, c. 186, § 1.)

**§ 6652. Volunteer Firemen's Pension Committee.**

The Delaware Volunteer Firefighter's Association shall appoint, from its membership, a 9-person advisory committee. Three members shall come from New Castle County, 3 members from Kent County and 3 members from Sussex County. The advisory committee shall make recommendations to the State Board of Pension Trustees on all pension matters the advisory committee deems appropriate.

(65 Del. Laws, c. 269, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 378, § 1.)

**§ 6653. Attachment and assignment of benefits.**

Except for orders of the Delaware Family Court for a sum certain payable on a periodic basis, the benefits provided by this chapter shall not be subject to attachment or execution and shall be payable only to the beneficiary designated and shall not be subject to assignment or transfer.

(65 Del. Laws, c. 269, § 1; 71 Del. Laws, c. 337, § 5.)

**§ 6654. Waiver of benefits.**

Any individual entitled to any benefits under this chapter may decline to accept all or any part of such benefits by a waiver signed and filed with the Board. Such waiver may be revoked in writing at any time, but no payment of the benefits waived shall be made covering the period during which such waiver was in effect.

(65 Del. Laws, c. 269, § 1.)

**§ 6655. Eligibility for pension.**

(a) A member shall become eligible to receive a pension beginning with the first month after attainment of age 60 if the member has 10 years of credited service.

(b) For purposes of this section, credited service shall include any period during which a member qualifies for benefits under Chapter 67 of Title 18 and/or workers' compensation.

(c) An inactive member with a vested right to a pension shall become eligible to receive such pension, computed in accordance with this chapter in effect when the member ceased to be a member, beginning with the first month after the member's attainment of age 60.

(65 Del. Laws, c. 269, § 1; 70 Del. Laws, c. 186, § 1.)

**§ 6656. Vested right to pension.**

(a) A member who has 10 years of credited service shall have a vested right to a pension.

(b) A member's vested right shall be forfeited upon the member's application for a refund of the member's accumulated contributions, and the member's membership shall be cancelled.

(65 Del. Laws, c. 269, § 1; 70 Del. Laws, c. 186, § 1.)

**§ 6657. Payment of pension.**

No pension payment shall be made under this chapter prior to July 1, 1988, thereafter pension payments shall be made beginning with the month in which the member becomes eligible to receive such pension and ending with the month in which the member dies.

(65 Del. Laws, c. 269, § 1; 70 Del. Laws, c. 186, § 1.)

### **§ 6658. Amount of pension.**

The amount of the monthly pension payable to an eligible member shall be \$10 times years of credited service up to a maximum of 25 years.

(65 Del. Laws, c. 269, § 1; 83 Del. Laws, c. 326, § 6(b).)

### **§ 6659. Death benefit.**

Upon the death of a member, inactive member or retired member, there shall be paid to the designated beneficiary or beneficiaries or, in the absence of a designated beneficiary, to the estate of the member, a lump sum equal to the excess, if any, of the accumulated member contributions with interest over the aggregate of all pension payments made.

(65 Del. Laws, c. 269, § 1.)

### **§ 6660. Withdrawal benefit.**

(a) Upon the withdrawal from service of a member who is not eligible to receive a pension and does not have a vested right to a pension, the member's accumulated contributions with interest shall be paid to the member's employer for final disposition.

(b) Upon the withdrawal from service of a member who is not eligible to receive a pension but has a vested right to a pension, the member's accumulated contributions with interest shall be paid to such member.

(c) If an individual ceases to be a member the individual's service credits to the date of termination shall be cancelled, but shall be restored if the individual again becomes a member provided that if the individual has withdrawn the individual's own contributions the individual repays them with interest at a rate determined by the Board.

(65 Del. Laws, c. 269, § 1; 70 Del. Laws, c. 186, § 1.)

### **§ 6661. Volunteer Firemen's Pension Fund established.**

There shall be established a Volunteer Firemen's Pension Fund, hereinafter referred to as "Fund," to which the employer and member contributions shall be deposited annually and to which earnings on investments, any other contributions, gifts, donations, grants, refunds and reimbursements shall be deposited upon receipt and from which benefits shall be paid and fees and expenses authorized by the Board shall be paid. Subject to Internal Revenue Code § 457(e)(11) [26 U.S.C. § 457(e)(11)], the assets of the Fund will be invested by the Board as provided for by § 8308 of Title 29. The assets of the Fund are held in trust and may not be used for or diverted to any purpose other than for the exclusive benefit of the members.

(65 Del. Laws, c. 269, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 121, § 10; 76 Del. Laws, c. 279, § 13.)

### **§ 6662. Member contributions.**

Member contributions to the Fund shall be \$60 per annum.

(65 Del. Laws, c. 269, § 1.)

### **§ 6663. Employer contributions.**

(a) The employer's contribution to the Fund for the fiscal year 1986-1987 shall be \$250,000.

(b) The employer's contribution to the Fund for the fiscal year 1987-1988 shall be \$250,000.

(c) The employer's contribution to the Fund for the fiscal year 1988-1989, and for each fiscal year thereafter shall be a sum approved by the Board on the basis of the most recent actuarial valuation.

(d) The actuary shall prepare an actuarial valuation of the assets and liabilities of the Fund as of June 30, 1988, and each year thereafter. On the basis of reasonable actuarial assumptions and tables approved by the Board, the actuary shall determine the normal cost required to meet the actuarial cost of current service and the unfunded accrued liability.

(65 Del. Laws, c. 269, § 1.)

### **§ 6664. Payment of benefits.**

Benefits shall be due and payable under this chapter only to the extent provided in this chapter, and neither the State nor the Volunteer Firemen's Pension Fund shall be liable for any amount in excess of such sums.

(71 Del. Laws, c. 132, § 90.)

### **§ 6665. Withdrawal of an employer.**

(a) A participating employer may withdraw from the Fund by providing a resolution from its governing body to the Board. The withdrawing employer shall be ineligible to rejoin the Fund at a future date. The withdrawing employer shall be required to make a withdrawal liability payment as provided under subsection (c) of this section.

(b) All vested members of the employer shall be eligible for benefits accrued with the Fund up to the withdrawal date. All nonvested members will be eligible for a withdrawal benefit as provided under § 6660 of this title.

(c) The employer will remain liable to the Fund for the employer's share of any unfunded actuarial liability of the Fund which is attributable to the members of the employer who have either retired or will retire from the Fund. The employer's liability shall be calculated on the basis of the actuarial assumptions used in the Fund's most recent actuarial valuation. The calculation will be based on the Fund's present value of accrued benefits less the market value of assets multiplied by the fraction of the total amount required to be contributed to the Fund by the employer over the past 5 years divided by the total amount required to be contributed to the Fund by all participating employers during the past 5 years. The employer's liability shall be paid in accordance with a schedule determined by the Board over a period not to exceed 2 years. Any payment schedule shall use an interest rate equal to the rate of investment return used in the actuarial valuation adopted by the Board prior to the withdrawal date.

(d) Should a volunteer fire company take formal action to disband their auxiliary organization the withdrawal liability payment pursuant to subsection (c) of this section shall be paid by the volunteer fire company.

(80 Del. Laws, c. 180, § 1.)

**Part VI  
Safety**

**Chapter 66B**

**Reporting of Burn Injuries and Wounds [Repealed].**

**§§ 6601B, 6602B. Burn injuries and wounds to be reported; responsibility of State Fire Marshal [Repealed].**

Repealed by 77 Del. Laws, c. 444, § 14, effective July 27, 2010.



**Part VI  
Safety**

**Chapter 66C**

**Carbon Monoxide Detection Devices**

(81 Del. Laws, c. 349, § 1.)

**§ 6601C. Definitions.**

For purposes of this chapter:

(1) “Carbon monoxide detection devices” means a battery-operated or AC-powered device that detects the presence of the carbon monoxide gas in order to prevent carbon monoxide poisoning. “Carbon monoxide detection devices” includes combination smoke and carbon monoxide detectors.

(2) “Dwelling unit” means a single unit providing complete, independent living facilities for 1 or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(3) a. “Lodging establishment” means any building, group of buildings, structure, facility, place, or places of business where 1 or more dwelling units or sleeping units are provided and which is kept, used, maintained, advertised, or held out to the public to provide lodging accommodations for pay which can be construed to be a hotel, motel, motor hotel, apartment or multi-family dwelling, bed and breakfast facility, bunkhouse, cabin, condominiums, dormitory, extended-stay establishment, multi-family dwelling, resort, or other similar place by any other name, be it rented, leased, or owned for either transient guests, permanent guests, or for both transient and permanent guests.

b. “Lodging establishment” does not include any of the following:

1. Dormitories and other living or sleeping facilities owned or maintained by public or private schools, colleges, universities, or churches unless made available to the general public and not used exclusively for students and faculty.

2. A private residence that is occupied by the owner and where no dwelling or sleeping unit is available for pay.

(4) a. “Owner” means an individual; corporation; business trust; estate trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity that meets any of the following requirements:

1. Has a legal interest in a lodging establishment.

2. Has an equitable interest in a lodging establishment that includes participation in management of the lodging establishment.

3. Operates or manages a lodging establishment.

4. Operates or manages a lodging establishment under a contract, lease, or other form of authorization agreement.

5. Undertakes actual control or authority over the operation or management of a lodging establishment.

b. “Owner” does not mean an equitable interest in an artificial entity under paragraph (4)a. of this section.

(5) “Sleeping unit” means a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both.

(6) “Transient” means occupancy of a dwelling unit or sleeping unit for not more than 30 days.

(81 Del. Laws, c. 349, § 1.)

**§ 6602C. Carbon monoxide detection devices required.**

(a) Each owner of a lodging establishment shall install carbon monoxide detection devices in accordance with the installation requirements in § 6603C of this title if a dwelling unit or sleeping unit has either of the following:

(1) A fossil-fuel burning heater or appliance, a fireplace, or other feature, fixture, or element that emits carbon monoxide as a byproduct of combustion.

(2) An attached garage.

(b) The requirement of carbon monoxide detection devices under subsection (a) of this section applies to all new and existing lodging establishments, in accordance with the compliance dates provided in § 6604C of this title, regardless of when any such lodging establishment was built.

(c) The owner of a lodging establishment must install and maintain carbon monoxide detection devices required under this chapter, unless there is a tenant of a rented or leased lodging establishment required to have carbon monoxide detection devices under this chapter and the rental agreement, lease agreement, or contract is for a period of 1 month or more. In such a case, the owner must install the required carbon monoxide detection devices but the tenant is responsible for maintaining an operable battery in any carbon monoxide detection devices within the individual rented or leased dwelling unit.

(81 Del. Laws, c. 349, § 1.)

## § 6603C. Carbon monoxide detection device installation.

(a) Carbon monoxide detection devices required under § 6602C(a) of this title must be installed in accordance with the rules and regulations promulgated by the State Fire Marshal's Office that must include all of the following:

(1) Single station battery-operated carbon monoxide detection devices listed for the purposes for which they are intended are permitted if both of the following conditions exist:

- a. The lodging establishment was either constructed or received final approval for construction, before January 1, 2019;
- b. The carbon monoxide detection devices are installed pursuant to manufacturers' specifications.

(2) Requirements will be consistent with the standards and guidelines of all of the following:

- a. The recommendations and instructions provided by the manufacturer of a device.
- b. Local building codes.
- c. The American National Standards Institute.

(b) Carbon monoxide detection devices are not required in a dwelling unit or sleeping unit if any of the following apply:

(1) A dwelling unit or sleeping unit is located more than 1 story above or below any story that contains a fuel-burning appliance or an attached garage.

(2) A dwelling unit or sleeping unit is not connected by duct work or ventilation shafts to any room containing a fuel-burning appliance or to an attached garage.

(81 Del. Laws, c. 349, § 1.)

## § 6604C. Compliance dates.

(a) For each lodging establishment, newly erected, built, or constructed after January 1, 2019, the carbon monoxide detection devices required under § 6602C of this title must be installed at the time of construction.

(b) For each lodging establishment, in the process of being erected, built, or constructed as of January 1, 2019, the carbon monoxide detection devices required under § 6602C of this title must be installed before December 31, 2019, or the completion of construction.

(c) For each existing lodging establishment, erected, built, or constructed before January 1, 2019, the carbon monoxide detection devices required under § 6602C of this title must be installed before December 31, 2020.

(81 Del. Laws, c. 349, § 1.)

## § 6605C. Penalties for noncompliance; enforcement.

(a) The Justice of the Peace Court has jurisdiction over violations of this section.

(b) It is unlawful for an owner or tenant of a lodging establishment required to have carbon monoxide detection devices under this chapter to fail to comply with this chapter. Violation of this subsection is punishable by a civil fine of not less than \$100 nor more than \$500 for each offense.

(c) It is unlawful to tamper with, damage, destroy, or render inoperative any carbon monoxide detection devices required under this chapter. Violation of this subsection is punishable by a civil fine of not less than \$100 nor more than \$500 for each offense.

(d) The State Fire Marshal may take the following actions under this chapter:

(1) Promulgate rules and regulations necessary to implement the provisions of this chapter.

(2) Issue a summons, where necessary, to the owner, the tenant, and the occupant of such lodging establishment, for an appearance in the nearest Justice of the Peace Court when a fire department responds to an alarm of any type at a lodging establishment required to have carbon monoxide detection devices under this chapter and such establishment does not have carbon monoxide detection devices or has carbon monoxide detection devices that are inoperable, not in service, or not installed or maintained as required under this chapter.

(3) Investigate a complaint that a lodging establishment required to have carbon monoxide detection devices under this chapter does not have carbon monoxide detection devices or has carbon monoxide detection devices that are inoperable, not in service, or not installed or maintained as required under this chapter.

(e) Each fine collected under this section must be remitted to the State Fire Marshal's Office in accordance with § 6612 of this title, which provisions must be complied with in implementing the requirements of this chapter, except that the fines are collected within the jurisdictions of the cities of Wilmington, Newark, Dover, or New Castle must be remitted to the appropriate political subdivision. All receipts must be used to subsidize the costs of providing a greater public awareness of the ramifications of not having carbon monoxide detectors.

(f) The State Fire Marshal's Office shall be the statewide manager and agency for all public awareness programs generated by the proceeds of the fines collected under this section.

(g) In addition to other remedies provided by this section, the State Fire Marshal or the Attorney General may, in addition to other remedies provided by this section, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent any continued violations of this chapter.

(81 Del. Laws, c. 349, § 1.)

**Part VI  
Safety**

**Chapter 66D**

**Fire-Resistance-Related Construction [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2]**  
(83 Del. Laws, c. 479, § 1.)

**§ 6601D. Definitions [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2].**

For purposes of this chapter:

(1) “Buildings” means a building equipped with heating, ventilating, and air conditioning (HVAC) fire dampers, smoke dampers and/or smoke control system. As used in this chapter, “buildings” does not include residential buildings excluded under § 6602D of this title.

(2) “Fire life safety damper testing” means testing and inspection activities, including all physical, visual, and operational tests necessary to ensure the complete opening and closing of dampers and the proper functioning of fire dampers and smoke dampers as required by the International Fire Code (IFC), NFPA 80, NFPA 105, and applicable engineering specifications.

(3) “Fire life safety dampers” means all fire dampers, smoke dampers, and combination fire and smoke dampers.

a. “Combination fire/smoke damper” means a device that meets both the fire damper and smoke damper requirements.

b. “Fire damper” means a device installed in an air distribution system, designed to close automatically upon detection of heat, to interrupt migratory airflow and to restrict the passage of flame; and includes devices installed in air conditioning systems to close automatically upon detection of heat, to interrupt migratory airflow, and to restrict the passage of flames. A fire damper shall also include a combination fire/smoke damper system.

c. “Smoke damper” means a device within an air distribution system to control the movement of smoke, and includes devices installed in air conditioning systems to control the movement of smoke. A smoke damper shall also include a combination smoke/fire damper system.

(4) “NFPA” means National Fire Protection Association.

(5) “Smoke control system” means an engineered system that includes all methods that can be used singly or in combination to modify smoke movement, including engineered systems that use mechanical fans to produce pressure differences across smoke barriers to inhibit smoke movement.

(83 Del. Laws, c. 479, § 1.)

**§ 6602D. Buildings subject to testing [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2].**

All buildings shall establish a heating, ventilating, and air conditioning (HVAC) fire life safety damper, and smoke control system inspection verification program for the purpose of ensuring that fire life safety dampers and smoke control systems are in working order to prevent the spread of fire and smoke within walls, floors, and ceilings except:

(1) Any structure or portion thereof which is occupied as, or designed or intended for occupancy as a residence for 2 or less families, including multifamily, single family, and townhouse dwellings, is excluded from the testing requirements in § 6603D of this title.

(2) All other residential buildings, including hotels, are subject to the required testing only for mechanical rooms and common use areas, including stairs, hallways, and lobbies.

(83 Del. Laws, c. 479, § 1.)

**§ 6603D. Required testing of fire life safety dampers [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2].**

(a) All owners of buildings shall be responsible for ensuring that newly-installed fire life safety dampers shall be subject to fire life safety damper testing required to be installed in buildings pursuant to the Delaware Building Standards Code are inspected and tested as required by the applicable NFPA standards referenced in the Delaware Building Standards Code or as set forth in regulations adopted by the State Fire Marshal and in accordance with this section before use is permitted.

(b) Fire dampers, smoke dampers, and fire combination fire/smoke dampers shall be inspected and tested no less than once after the first year of installation, and once every 4 years thereafter, except for hospitals. In hospitals, fire dampers, smoke dampers, and combination fire/smoke dampers shall be inspected and tested no less than once after the first year of installation, and once every 6 years thereafter. The testing of fire dampers, smoke dampers and combination fire/smoke dampers shall include the visual inspection method as defined in NFPA 80, 19.5.2.3.2 and in NFPA 105, Section 7.6.3.2. The remote inspection method set defined in Section 19.5.2.2.3 of NFPA 80 and Section 7.6.3.3 of NFPA 105 shall not be used in place of visual inspection for the periodic testing required under this section. All fire/smoke dampers shall be tested, per the aforementioned schedule, regardless of location.

(c) Once installed, fire life safety dampers shall be inspected and tested no less than once after the first year of installation, and once every 4 years thereafter, except for hospitals. In hospitals, fire life safety dampers shall be inspected and tested no less than once after the

first year of installation and once every 6 years thereafter. The testing of fire life safety dampers shall include the visual inspection method as defined in NFPA 80, 19.5.2.3.2 and in NFPA 105, Section 7.6.3.2. The remote inspection method set defined in Section 19.5.2.2.3 of NFPA 80 and Section 7.6.3.3 of NFPA 105 shall not be used in place of visual inspection for the periodic testing required under this section. All fire/smoke dampers shall be tested, per the aforementioned schedule, regardless of location.

(d) All owners of buildings shall be responsible for ensuring that smoke control systems required to be installed pursuant to the Delaware Building Standards Code are tested as required by the applicable NFPA standards referenced in the Delaware Building Standards Code or as set forth in regulations adopted by the State Fire Marshal. Dedicated smoke control systems shall be tested at least semiannually. Nondedicated smoke control systems shall be tested at least annually. Testing of smoke control systems shall include tests to determine airflow quantities and pressure differences are code compliant, including at the following locations:

- (1) Across smoke barrier openings.
- (2) At the air makeup supplies.
- (3) At smoke exhaust equipment.

(83 Del. Laws, c. 479, § 1.)

### **§ 6604D. Required qualifications of individual testers of fire/smoke dampers [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2].**

(a) The Delaware State Fire Prevention Commission shall establish and administer a program to review and approve third-party inspection training and certification programs to ensure conformance to the minimum qualifications set forth in this section.

(b) Inspections and tests under this section shall be performed by a qualified inspector. For the purposes of this section a “qualified inspector” means either of the following:

- (1) Authorized state or local fire department personnel.

(2) A technician possession certification from the International Certification Board as a HVAC fire life safety technician or through an equivalent certification program accredited under the ISO/IEC 17024 personnel certification standard and that is employed and supervised by a contractor that maintains current workers’ compensation insurance coverage.

(83 Del. Laws, c. 479, § 1.)

### **§ 6605D. Certificate of operation [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2].**

If the fire life safety dampers and smoke control systems pass the applicable inspections and tests, the person performing the inspection or test shall execute a certificate of operation which shall verify such compliance, and provide the name and certification number of the individual(s) conducting the inspection or test and that person’s employer, the name of the building owner and address of the property, the location of all smoke dampers, fire dampers, combination fire/smoke dampers, and smoke control systems inspected or tested, and the date of the inspection or test. The building owner shall maintain a copy of the certificate of operation on the building property and make the certificate available for inspection upon request.

(83 Del. Laws, c. 479, § 1.)

### **§ 6606D. Testing failures [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2].**

(a) In the event an inspection or test reveals deficiencies in fire life safety dampers, or smoke control systems, the person(s) who conducted the inspection or test shall prepare a deficiency report for the building owner identifying the nature of the deficiency and reasons for noncompliance. The deficiency report shall also contain the name and certification number of the individual(s) conducting the inspection or test and that person’s employer, the name of the building owner, address of the property, the location of all fire dampers, smoke dampers, combination fire/smoke dampers and smoke control systems inspected or tested, and the date of the inspection or test. The building owner shall, without delay, take the necessary steps to ensure the defective equipment is replaced or repaired and that compliance with the applicable inspection and testing requirements has been achieved. A building that does not achieve compliance within 30 days shall be deemed in violation of this section.

(b) The building owner shall post a notice of verification of the testing and inspection of fire life safety dampers, and smoke control systems in the outside lobby window of the building or other area clearly visible to the public. The verification shall state the address of the building and the date of the last fire damper inspection, smoke damper inspection, and smoke control system inspection, and the date that each inspection expires.

(83 Del. Laws, c. 479, § 1.)

### **§ 6607D. Submissions and inspections [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2].**

(a) Building owners shall submit copies of operation certificates to the municipal or State Fire Marshal showing they are in compliance with the testing requirements of this section within 30 days of obtaining operation certificates. The municipal or State Fire Marshal shall commence enforcement actions for any instance of noncompliance.

(b) *Inspections.* —

When the municipal or State Fire Marshal conducts an annual fire inspection of any building, it shall inspect the building owner's fire life safety damper and smoke control system certificate of operation to ensure it complies with the requirements of this section and commence enforcement actions if violations are found.

(83 Del. Laws, c. 479, § 1.)

**§ 6608D. Enforcement and penalties [Effective upon meeting the contingency in 83 Del. Laws, c. 479, § 2].**

Any person who violates this chapter shall be assessed a civil penalty of \$100 for each day of noncompliance payable to the Office of State Fire Marshal.

(83 Del. Laws, c. 479, § 1.)

**Part VI  
Safety**

**Chapter 67**

**Authority of Fire Departments and Fire Police Within the State**

**§ 6701. Appointment of fire police; oath of office.**

(a) Any duly organized fire company or substation (outside the City of Wilmington) may provide for the appointment of not more than 6 of its members to perform police duties at fires, fire drills and any emergencies or functions covered by the fire company for a term to be fixed by the fire company.

(b) The members selected by the fire company as fire police shall, before entering upon their duties, qualify by taking and subscribing an oath that they will justly, impartially and faithfully discharge their duties according to the best of their ability and understanding. The oath shall be administered by the sheriff of the county in which the fire company making the appointment is located and shall be subscribed by the member appointed as a fire police officer in duplicate. The original copy of the oath shall be filed with the sheriff of the county in which the fire company making the appointment is located and a copy thereof filed with the secretary of the fire company making the appointment.

(47 Del. Laws, c. 82, § 1; 16 Del. C. 1953, § 6701; 55 Del. Laws, c. 62; 66 Del. Laws, c. 150, § 1; 70 Del. Laws, c. 186, § 1.)

**§ 6701A. Authority of fire officers-in-charge.**

While any duly constituted fire department recognized by the Delaware State Fire Prevention Commission is responding to, operating at or returning from a fire, service call or other emergency, the fire chief, any other elected or appointed fire line officer or any member serving the capacity of fire officer-in-charge shall have the authority:

- (1) Of controlling and directing the activities at such scene;
- (2) To order any person or persons to leave any building or place in the vicinity of such scene for the purpose of protecting such persons from injury;
- (3) To blockade any public highway, street or private right-of-way temporarily while at such scene;
- (4) To trespass at any time of the day or night without liability while at such scene;
- (5) To enter any building, including private dwellings, or upon any premises where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, for the purpose of extinguishing the fire;
- (6) To enter any building, including private dwellings, or premises near the scene of the fire for the purpose of protecting the building or premises or for the purpose of extinguishing the fire which is in progress in another building or premises;
- (7) To inspect for preplanning all buildings, structures or other places in their fire district excepting, however, the interior of a private dwelling, where any combustible material, including waste paper, rags, shaving, waste, leather, rubber, crates, boxes, barrels, rubbish or other combustible material that is or may become dangerous as a fire menace to such building or buildings, structure or other places has been allowed to accumulate or where such chief or the chief's designated representative has reason to believe that such material of a combustible nature has accumulated or is liable to be accumulated;
- (8) To direct without liability the removal or destroying of any fence, house, motor vehicle or other thing which the chief may judge necessary to be pulled down or destroyed, to prevent the further spread of the fire;
- (9) To request and be supplied with additional materials such as sand, treatments, chemicals, etc., and special equipment when it is deemed a necessity, to prevent the further spread of the fire or hazardous condition, the cost of which to be borne by such property owner;
- (10) To order disengagement or discouplement of any convoy, caravan, or train of vehicles, craft or railway cars if deemed a necessity in the interest of safety of persons or property;
- (11) To take command of all industrial management, fire brigades or fire chiefs whenever the chief's company or department is called to respond to such; if in the chief's opinion such action is in the interest of public safety;
- (12) In the event of an incident involving a hazardous substance, to transfer command to a state or federal emergency response team in accordance with the State Hazardous Substance Incident Contingency Plan.

(59 Del. Laws, c. 476, § 2; 64 Del. Laws, c. 123, § 2; 70 Del. Laws, c. 186, § 1.)

**§ 6702. Territorial jurisdiction of fire police.**

(a) A member of a fire company who has been appointed and qualified as a fire police officer may thereafter, for the term of the member's appointment, act as such anywhere in the county in which the fire company making the appointment is located or in any other county of the State in which the member is called upon to act.

(b) Subject to prior written approval by the fire chief, a fire police officer may be granted permission to:

- (1) Assist the fire officer-in-charge, and also assist law enforcement officers as defined in § 9200(b) of Title 11, anywhere within the State;

(2) Assist the fire officer-in-charge, and also assist law enforcement officers in out-of-state districts bordering the State, with authority of the bordering district;

(3) Assist at the scene of any potential emergency incident encountered by the fire police officer, and to remain on duty until released by the authorized fire officer or law enforcement officer in charge; and

(4) Perform other special duties as may be requested and approved by the fire chief.

(47 Del. Laws, c. 82, § 2; 16 Del. C. 1953, § 6702; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 12, § 1.)

### **§ 6703. Supervision by fire officer.**

A fire police officer, subject to § 6702(b) of this title, shall perform the fire police officer's duties under the supervision of the fire officer-in-charge of the scene of a fire, fire drill or other emergency, or in the absence of a fire officer-in-charge, under the supervision of the law enforcement officer in charge of the scene.

(47 Del. Laws, c. 82, § 2; 16 Del. C. 1953, § 6703; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 12, § 2.)

### **§ 6704. Duties.**

The duties of a fire police officer, subject to the supervision of the fire officer in charge, are to:

(1) Protect the contents of buildings and all other property affected by any fire or fire drill;

(2) Establish and maintain fire lines;

(3) Perform such traffic duties as are necessary;

(4) Wear a fire police badge, to be designed and authorized by the Delaware Volunteer Firefighter's Association, on the left breast of the outermost garment while on duty.

(47 Del. Laws, c. 82, § 3; 16 Del. C. 1953, § 6704; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 12, §§ 3, 4; 77 Del. Laws, c. 378, § 1.)

### **§ 6705. Powers as superseding authorized police officers.**

Nothing contained in this chapter shall be construed to allow or permit the fire police, or any of them, to supersede the authority of a duly authorized police officer.

(47 Del. Laws, c. 82, § 4; 16 Del. C. 1953, § 6705.)

### **§ 6706. Arresting power.**

If any person unreasonably refuses to obey the orders of a fire police officer in the exercise of the fire police officer's duties, such person may be held under arrest by the fire police officer until the fire at which the fire police officer is called upon to act is extinguished or the fire drill completed at which time the fire police shall take the arrested person before a justice of the peace and charge the arrested person with failure to obey the order of a fire police officer.

(47 Del. Laws, c. 82, § 5; 16 Del. C. 1953, § 6706; 59 Del. Laws, c. 322, § 1; 70 Del. Laws, c. 186, § 1.)

### **§ 6707. Penalty for refusal to obey orders of fire police officer.**

Whoever refuses to obey the orders of a fire police officer in the exercise of the fire police officer's duties shall be fined no less than \$25 and no more than \$50.

Prosecutions for violations of this section shall be before a justice of the peace.

(47 Del. Laws, c. 82, § 6; 16 Del. C. 1953, § 6707; 59 Del. Laws, c. 322, § 2; 70 Del. Laws, c. 186, § 1.)

### **§ 6708. Definitions.**

For the purposes of this chapter:

(1) "Advisory committee" means the advisory committee on ambulance service.

(2) "Ambulance" includes any privately or publicly owned vehicle that is specially designed, constructed or modified and equipped and is intended to be used for and is maintained or operated for the transportation upon the streets and highways in this State of persons who are sick, injured, wounded or otherwise incapacitated or helpless. Vehicles designed primarily for rescue operations and which do not ordinarily but may transport persons upon the streets and highways are excluded.

(3) "Ambulance attendant" shall have the same definition as is set forth in Chapter 97 of this title.

(4) "Ambulance service district" means a geographical area with boundaries which are typically aligned to fire service districts within the State as identified and certified by State Fire Prevention Commission.

(5) "Ambulance service provider" means an organization or company which has been authorized and certified to provide ambulance service within the State by the State Fire Prevention Commission.

(6) "Certification" means original certification as an ambulance attendant or emergency medical technician by the State Fire Prevention Commission.

(7) "Commission" means State Fire Prevention Commission or a duly authorized representative thereof.

(8) "Criminal history" means a person's entire criminal history record from the State Bureau of Identification and the person's entire federal criminal history record maintained by the Federal Bureau of Investigation.

(9) “Decertification” means the cancellation or revocation of the certificate issued by the State Fire Prevention Commission to an ambulance attendant or emergency medical technician.

(10) “Emergency medical technician” (EMT) shall have the same definition as is set forth in Chapter 97 of this title.

(16 Del. C. 1953, § 6721; 58 Del. Laws, c. 177; 71 Del. Laws, c. 49, § 2; 72 Del. Laws, c. 137, § 6; 73 Del. Laws, c. 176, § 1.)

### § 6709. Permit required to operate ambulances.

(a) No person, firm, corporation or association either as owner, agent or otherwise shall hereafter furnish, operate, conduct, maintain, advertise or otherwise engage in or profess to be engaged in the business or service of transporting patients under emergency conditions upon the streets or highways of this State unless the person, firm, corporation or association holds a currently valid permit for each ambulance used in such business or service issued by the Commission or a duly authorized representative thereof.

(b) Before a permit may be issued for a vehicle to operate as an ambulance, the registered owner must apply to the Commission for an ambulance permit. Application shall be made upon forms and according to procedures established by the Commission. Prior to issuing an original or renewal permit for an ambulance, the Commission or a duly authorized representative thereof shall determine that the vehicle for which the permit is issued meets all requirements as to medical equipment and supplies and sanitation as set forth in this chapter and the regulations of the Commission. Permits issued for ambulances shall be valid for a period specified by the Commission not to exceed 1 year.

(c) The Commission may issue temporary permits for vehicles not meeting required standards valid for a period not to exceed 90 days when it determines the public interest will be served thereby. Any temporary permit issued hereunder shall not be renewed.

(d) When a permit has been issued for an ambulance as specified herein, the vehicle for which issued and records relating to maintenance and operation of such vehicle shall be open to inspection by duly authorized representatives of the Commission at all reasonable times.

(e) The issuance of a permit hereunder shall not be construed so as to authorize any person, firm, corporation or association to provide ambulance services or to operate any ambulance without compliance with all ordinances and regulations enacted or promulgated by any county or municipal government concerning ambulances.

(16 Del. C. 1953, § 6722; 58 Del. Laws, c. 177; 70 Del. Laws, c. 186, § 1.)

### § 6710. Advisory committee on ambulance service.

(a) For the purpose of assisting the Commission in developing standards for use in the administration of this chapter, there is hereby created the advisory committee on ambulance service. The advisory committee shall be composed of 8 members, whose names shall be submitted to the Commission by resolution of the following respective organizations: 6 representatives, 2 from each county from the Delaware Volunteer Firefighter’s Association, 1 representative from the nonfire department owned volunteer ambulance organizations, and 1 representative from the privately owned ambulance companies. Each representative shall serve at the pleasure of the organization which the representative represents and the representative successor shall be chosen in like manner. The Chairperson of the Commission shall call the advisory committee to its first meeting. The advisory committee shall choose a chairperson and shall meet thereafter at the call of the chairperson of the advisory committee or the Chairperson of the Commission.

(b) The committee shall provide technical assistance for the establishment of regulations for ambulance services and make recommendations to the Commission.

(16 Del. C. 1953, § 6723; 58 Del. Laws, c. 177; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 239, § 1; 77 Del. Laws, c. 378, § 1.)

### § 6711. Establishment of operational standards.

(a) *Powers of the Commission.* — (1) The Commission shall inspect equipment and supplies required of ambulances when it deems such inspection is necessary and shall maintain a record thereof. Upon determination, based upon an inspection, that required supplies or equipment fail to meet the requirements of this chapter or regulations adopted pursuant hereto, the Commission may suspend the permit for the ambulance concerned, until such requirements are met.

(2) Every ambulance shall be equipped with equipment and supplies specified by the Commission.

(3) [Repealed.]

(b) *Emergency ambulance licensing and certification.* — (1) The Commission shall carry out the licensing and certification activities assumed by the State under this chapter and perform all inspections required by this chapter, filing all records required by law. The Chairperson may issue a temporary certificate and/or permit with or without inspection when the chairperson finds that such will be in the public interest. A temporary certificate and/or permit shall be valid for a period not to exceed 90 days. All renewals must be authorized by the Commission.

(2) The Commission shall adopt regulations specifying operational standards for ambulances. Regulations so adopted shall also require that the interior of the ambulance and the equipment within the ambulance be sanitary and maintained in good working order and sufficient quantities at all times.

(3) Every ambulance, except those specifically excluded from the operation of this chapter, when operated on an emergency mission in this State shall be occupied by at least 1 person who possesses a valid ambulance attendant’s certificate from the Commission.

(4) [Repealed.]

(16 Del. C. 1953, § 6724; 58 Del. Laws, c. 177; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 176, §§ 2-4.)



**§ 6712. Certification of ambulance attendants and emergency medical technicians; criminal background checks.**

(a) A person seeking certification as an ambulance attendant or as an emergency medical technician (EMT) shall apply to the Commission using forms prescribed by the Commission. With the application, the applicant shall submit fingerprints and other necessary information in order to obtain the following:

(1) A report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no such information relating to that person.

(2) A report of the individual's entire federal criminal history record from the Federal Bureau of Investigation. The State Bureau of Identification shall be the intermediary for the purposes of this section and the Commission shall be the screening point for the receipt of said federal criminal history records.

(b) Upon application, the Commission or its governmental designee shall acquire and review the state and federal criminal history records for the applicant and may interview the applicant. If the Commission determines that the applicant meets the requirements of this section and of its regulations, then it shall issue a certificate to the applicant, subject to the following provisions:

(1) Certification must be denied to an applicant convicted of the following crimes:

a. A felony involving sexual misconduct where the victim's failure to affirmatively consent is an element of the crime, such as forcible rape;

b. A felony involving the sexual or physical abuse of a child or of a person who is elderly or impaired, such as sexual misconduct with a child, sexual exploitation of a child, making or distributing child pornography, incest involving a child, or assault on a person who is elderly or impaired;

c. A crime in which the victim is an out-of-hospital patient or a patient or resident of a health care facility, including abuse, neglect or theft from or financial exploitation of a person entrusted to the care or protection of the applicant.

(2) Certification must be denied to an applicant convicted of the following crimes, except in extraordinary circumstances:

a. Any crime for which applicant is currently incarcerated, on work release, on probation, or on parole;

b. A crime in the following categories, unless at least 5 years have passed since the applicant's conviction or at least 5 years have passed since the applicant was released from custodial confinement, whichever occurs later:

1. A serious crime of violence against a person, such as assault with a dangerous weapon, aggravated assault, murder or attempted murder, manslaughter (other than involuntary manslaughter), kidnapping, robbery of any degree, or arson;

2. A crime involving a controlled substance or designer drug, including unlawful possession or distribution of, or intent to unlawfully possess or distribute, a controlled substance in Schedules I through V of the Uniform Controlled Substances Act of Chapter 47 of this title;

3. A serious crime involving property, such as arson, burglary, embezzlement or insurance fraud;

4. Any crime involving sexual misconduct.

(3) In extraordinary circumstances, certification granted pursuant to paragraph (b)(2) of this section may be granted only if the applicant establishes by clear and convincing evidence that certification will not jeopardize public health and safety.

(c) (1) Certificates issued pursuant to this section shall be valid for a period as determined by the Commission and may be renewed after reconsideration, which may include an interview, if the holder meets the requirements set forth in the regulations of the Commission. The Commission may decertify any ambulance attendant or EMT at any time it determines that the person no longer meets the qualifications prescribed for certification.

(2) The Commission may extend the suspension of an ambulance attendant or emergency medical technician's certification for a period not to exceed 30 days, if the Commission reviews the charges supporting the suspension of an ambulance attendant or EMT's by an Emergency Medical Services Medical Director pursuant to § 9806(b)(7) of this title and concludes that a Commission hearing should be scheduled to consider the charges.

(d) Information obtained pursuant to subsection (b) of this section is confidential and shall not be disclosed under any circumstances except:

(1) The State Bureau of Identification may release any subsequent criminal history to the Office of Emergency Medical Services or the State Fire Prevention Commission when properly requested; and

(2) All information that has been forwarded to the Commission pursuant to this section shall be reviewed with the person seeking certification pursuant to this section upon his or her request.

(e) Costs associated with obtaining criminal history information pursuant to this section from the State Bureau of Identification and the Federal Bureau of Identification shall be borne by the applicant.

(f) A person seeking certification pursuant to this section who knowingly provides false, incomplete or inaccurate criminal history information, or who otherwise knowingly violates the provisions of this section, shall be guilty of a class G felony and shall be punished according to Chapter 42 of Title 11.

(g) Any student enrolled in the University of Delaware seeking certification as an EMT through the University of Delaware Department of Safety and Homeland Security is exempted from the provisions of subsections (a) and (b) of this section; provided, however, that the criminal history background check and review procedures employed by the University of Delaware Department of Safety and Homeland Security are at least as restrictive as those contained in this section. For the purposes of any criminal history background check or review conducted pursuant to this subsection, the State Bureau of Identification shall be the intermediary and the University of Delaware Department of Safety and Homeland Security shall be the screening point for the receipt of said federal criminal history records.

(h) The Commission shall adopt regulations to implement this section setting forth the qualifications required for certification of ambulance attendants and emergency medical technicians.

(73 Del. Laws, c. 176, § 5; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 239, § 1; 74 Del. Laws, c. 110, § 138; 75 Del. Laws, c. 54, § 1; 77 Del. Laws, c. 327, § 299; 78 Del. Laws, c. 179, § 234.)

### **§ 6712A. Suspension of certificate by Commission pending hearing.**

(a) Upon the receipt by the Commission of a court document charging an ambulance attendant or EMT licensed by the Commission with a felony, the Commission shall issue an order temporarily suspending the certificate holder's certificate, pending a final hearing on the complaint. An order of suspension under this section shall remain in effect for a period until such time as a determination of the case of said order.

(b) The certificate holder whose certificate has been temporarily suspended shall be notified forthwith in writing. Notification shall consist of a copy of the complaint and the order of suspension pending a hearing and shall be personally served upon the certificate holder or sent by certified mail, return receipt requested, to the certificate holder's last known address.

(c) A certificate holder whose certificate has been suspended pursuant to this section may request an expedited hearing. The Commission shall schedule the hearing on an expedited basis provided that the Commission receives the certificate holder's request for an expedited hearing within 15 calendar days from the date on which the certificate holder received notification of the Commission's decision to temporarily suspend the certificate holder's certificate.

(d) As soon as possible, but in no event later than 180 days after the issuance of the order of temporary suspension, the Commission shall convene for a hearing on the complaint. In the event that a certificate holder, in a timely manner, requests an expedited hearing, the Commission shall convene within 15 days of the receipt by the Commission of such a request and shall render a decision within 15 days.

(e) An order of suspension will remain in effect until such time as a determination of the case. Upon a final decision of the Commission, the order of suspension shall be vacated in favor of the disciplinary action ordered by the Commission.

(76 Del. Laws, c. 127, § 1.)

### **§ 6713. Exemptions.**

The following are exempted from the operation of this chapter:

(1) Privately owned vehicles not ordinarily used in the business of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless;

(2) A vehicle rendering service as an ambulance in case of a major catastrophe or emergency when the ambulances with permits and based in the locality of the catastrophe or emergency are insufficient to render the services required;

(3) Ambulances based outside the State rendering service in case of a major catastrophe or emergency when the ambulances with permits and based in the locality of the catastrophe or emergency are insufficient to render the services required;

(4) Ambulances owned and operated by an agency of the United States government;

(5) Ambulances based outside the State engaged in interstate transportation.

(16 Del. C. 1953, § 6726; 58 Del. Laws, c. 177.)

### **§ 6714. Penalties.**

The registered owner of every vehicle subject to this chapter shall comply with this chapter and all regulations adopted hereunder. For a violation of any regulation adopted under the authority of this chapter, the Commission may revoke or suspend the permit for all vehicles owned or operated by the violator.

(16 Del. C. 1953, § 6727; 58 Del. Laws, c. 177.)

### **§ 6715. Firemen, policemen or volunteer ambulance or rescue squad members rendering emergency care [Transferred].**

Transferred.

### **§ 6716. Penalty for disobeying fire officer-in-charge.**

Any owner or occupant of any building or premises or any other person who refuses to obey the orders of a fire officer-in-charge in the exercise of the officer's duties shall be fined not more than \$300 or imprisoned not more than 10 days.

(59 Del. Laws, c. 476, § 3.)

### **§ 6717. Establishment of State Fire Prevention Commission ambulance service responsibility and authority; ambulance service districts; operational and administrative requirements; ambulance service permits; penalties.**

(a) As the responsible agency for the regulation of ambulance services within the State, the Commission shall adopt regulations applicable to ambulance service providers including but not limited to the establishment of ambulance service districts, establishment of operational and administrative requirements and requirements for certification of ambulance service providers. The Commission shall also have the authority to establish a process for certification renewal and shall have the authority to decertify any agency for noncompliance with its regulations.

(b) The Commission may adopt regulations to establish an Incident Review Committee to consider incidents related to ambulance service and all proceedings of the Incident Review Committee shall be confidential. All records of the Incident Review Committee to include the recording of interviews and all oral or written reports, statements, minutes, memoranda, charts, statistics, data and other documentation either generated or received by the Incident Review Committee or its members for the purpose of considering incidents related to ambulance service shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceedings. No record shall be available for public inspection or is it a public record within the meaning of the Delaware Freedom of Information Act [Chapter 100 of Title 29].

(c) The Commission shall produce and make available an annual list of certified ambulance service providers. Ambulance service providers not certified will not be eligible to receive state funding, including but not limited to the special fund established pursuant to § 713 of Title 18 and Medicaid payments, and federal funding requiring certification. Nothing in this provision shall be construed to effect the eligibility of BLS agencies to receive state funding related to the operation of a rescue truck.

(d) The Commission shall, in consultation and cooperation with other components of the Delaware EMS system, develop and maintain a contingency plan for uninterrupted provision of service in the event an ambulance service provider is no longer able to provide service within an ambulance service district.

(e) The Commission shall monitor the occurrence of scratches by each ambulance service provider and take action to decertify any ambulance service provider that has excessive scratches. For purposes of this subsection, “scratches” are defined as instances when a BLS ambulance is alerted but does not respond to a call for assistance. For purposes of this subsection, “excessive scratches” shall mean a number of scratches exceeding a preestablished number or percentage for each BLS provider, determined and communicated annually in advance to the provider by the State Fire Prevention Commission.

(f) This section shall not pertain to the operation of paramedic service as outlined in Chapter 98 of this title.

(g) Any person, company or organization that provides ambulance service within the State without being authorized and certified by the State Fire Prevention Commission as an ambulance service provider shall be fined not more than \$300 per offense. Each and every day the provision of ambulance service continues after knowledge or official notice that such activity is illegal shall be deemed a separate offense.

(71 Del. Laws, c. 49, § 1; 71 Del. Laws, c. 445, § 1; 72 Del. Laws, c. 137, §§ 4, 5; 74 Del. Laws, c. 304, §§ 1, 2.)

**Part X**  
**Paramedic and Other Emergency Medical Service Systems**

**Chapter 97**  
**Emergency Medical Services Systems**

**§ 9701. Purposes.**

The purposes of the emergency medical services systems legislation are to establish and/or identify specific roles and responsibilities in regard to emergency medical services in Delaware in order to reduce morbidity and mortality rates for the citizens of Delaware and to ensure quality of emergency care services, within available resources, through the effective coordination of the emergency medical services system.

(63 Del. Laws, c. 383, § 1; 67 Del. Laws, c. 152, § 5.)

**§ 9702. Definitions.**

As used in this subchapter:

(1) “Acute health-care facility” means any facility which is established, maintained and operated for the purpose of providing immediate and emergent care to individuals suffering from a life-threatening medical condition.

(2) “Advanced emergency medical technician” (AEMT) shall mean a person who has successfully completed a course approved by the Board of Medical Licensure and Discipline or its duly authorized representative, which meets the objectives of the national scope of practice.

(3) “Advanced life support” (ALS) shall mean the advanced level of prehospital and interhospital emergency care that includes basic life support functions including cardiopulmonary resuscitation, plus cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive medical devices, trauma care and other authorized techniques and procedures.

(4) “Ambulance” shall mean any publicly or privately owned vehicle, as certified by the State Fire Prevention Commission, that is specifically designed, constructed or modified and equipped, and is intended to be used for and is maintained or operated for the transportation upon the streets and highways of this State for persons who are sick, injured, wounded or otherwise incapacitated or helpless.

(5) “Ambulance attendant” shall mean a person trained in emergency medical care procedures and currently certified by the Delaware State Fire Prevention Commission or its duly authorized agent in accordance with standards prescribed by the Commission. Such course shall be classified as basic life support and shall be the minimum acceptable level of training for certified emergency medical personnel.

(6) “Basic life support” (BLS) shall mean the level of capability which provides prehospital, noninvasive emergency patient care designed to optimize the patient’s chances of surviving an emergency situation.

(7) “Consumer” shall mean a recipient or potential recipient of the services provided by an emergency medical services system, who receives no direct or indirect personal, financial or professional benefit as a result of association with health care or emergency services other than that generally shared by the public at large, and who is not otherwise considered a “provider” within the intent of this subchapter.

(8) “Controlled substance” means as defined in § 4701 of this title.

(9) “Director” shall mean the program chief of the Office of Emergency Medical Services responsible for the duties of the Office as set forth in Chapter 97 of this title.

(10) “Disaster” shall mean a sudden unexpected event which disrupts normal community functions and/or quickly exhausts local facilities so as to require outside help.

(11) “Early defibrillation provider” shall mean a member or employee of an early defibrillation service certified to operate Semi-Automatic External Defibrillator (SAED) equipment under the requirements set forth in regulations promulgated by the Department of Health and Social Services.

(12) “Early defibrillation service” shall mean any agency, organization or company, certified as such by the State Office of Emergency Medical Services, that employs or retains providers certified in the use of semi-automatic defibrillation equipment.

(13) “Emergency medical services systems” (EMSS) shall mean a statewide system which provides for the utilization of available personnel, equipment, transportation and communication to ensure effective and coordinated delivery of medical care in emergency situations resulting from accidents, illness or natural disasters.

(14) “Emergency medical technician” (EMT) shall mean a person trained, and currently certified by the State Fire Prevention Commission, in emergency medical care procedures through a course which meets the objectives of the national scope of practice.

(15) “Health planning agencies” shall mean the federally designated health system agency and/or statewide health planning and development agency for Delaware.

(16) “Hospital” means as defined in § 1001 of this title.

(17) “Inclusive statewide stroke care system” means a stroke system in which all current and future providers of hospital and/or prehospital health-care services may participate, at a level commensurate with the scope of their resources, as required in a stroke facility.

(18) “Inclusive statewide trauma care system” means a trauma system in which all current and future providers of hospital and/or pre-hospital health-care services may participate, at a level commensurate with the scope of their resources, as required in a specialty care unit of this section.

(19) “Law-enforcement officer” means a sworn member of a police force or other law-enforcement agency of this State, or of any county or municipality within this State, who is responsible for the prevention and detection of crime and the enforcement of the laws of this State, or the laws of any county or municipality within this State.

(20) “Medical control” shall mean directions and advice normally provided from a centrally designated medical facility operating under medical supervision, supplying professional support through radio or telephonic communication for on-site and in-transit basic and advanced life support services given by field and satellite facility personnel.

(21) “Mutual aid agreements” shall mean the establishment of appropriate arrangements with EMS systems of other states for the provision of emergency medical services on a reciprocal basis.

(22) “Opioid use disorder” means a substance use disorder involving the use of opioids, whether as controlled substances or as narcotic drugs.

(23) “Overdose” means an acute condition resulting from the use of alcohol or a controlled substance, or a narcotic drug, or a combination of substances, including physical illness, coma, mania, hysteria, or death.

(24) “Overdose System of Care Committee” means the Committee established under § 9711 of this title.

(25) “Paramedic” shall mean a person who has successfully completed a course approved by the Board of Medical Licensure and Discipline or its duly authorized representative, and who acts under the direct or radio control of a physician or physician surrogate.

(26) “Provider” shall mean a person who, as an individual or member of a corporation or organization, whether profit-making or nonprofit, on a regular basis gives or offers for sale any supplies, equipment, professional or nonprofessional services, or is capable of giving or offering for sale supplies, equipment or services vital or incidental to the functions of an emergency medical services system.

(27) “Public safety personnel” shall mean law-enforcement officers, lifeguards, park rangers, firefighters, ambulance and rescue personnel, communications and dispatch specialists, and other public employees and emergency service providers charged with maintaining the public safety.

(28) “Secretary” means the Secretary of the Department of Health and Social Services.

(29) “Semi-automatic external defibrillator” shall mean a device capable of analyzing a cardiac rhythm, determining the need for defibrillation, automatically charging and advising a provider to deliver a defibrillation electrical impulse.

(30) “Specialty care unit” shall mean sophisticated treatment facilities that provide advanced specialized definitive care for critically ill patients. The units shall be available for the diagnosis and care of specific patient problems including major trauma, burns, spinal cord injury, stroke, poisoning, acute cardiac, overdose, substance use disorder, opioid use disorder, high-risk infant and behavioral emergencies.

(31) “Stabilization center” means a facility designated by the Secretary to receive patients from Emergency Medical Services who are experiencing a nonlife threatening overdose or who require acute management for substance use disorder.

(32) “Stroke facility” shall mean an acute care hospital or freestanding emergency department that has received and maintains current State of Delaware designation as a stroke center, as determined by the Secretary of Health and Social Services, or an acute care hospital or freestanding emergency department that has not achieved such a designation but participates in the care of stroke patients and contributes data to the Delaware Stroke System Registry and Quality Improvement Program.

(33) “Stroke patient” shall mean any person with an episode of neurological dysfunction or headache caused by focal cerebral, spinal, or retinal infarction or by a focal collection of blood within the brain parenchyma, ventricular system, or subarachnoid space that is not caused by trauma.

(34) “Substance use disorder” means the psychological or physical dependence on alcohol, a controlled substance, a narcotic drug, or a combination of substances, that causes clinical and functional impairment or distress. “Substance use disorder” often includes a strong desire to use alcohol, a controlled substance, or a narcotic drug, increased tolerance to alcohol, a controlled substance, or a narcotic drug, and withdrawal syndrome when use of alcohol, a controlled substance, or a narcotic drug is abruptly discontinued.

(35) “Trauma facility” means an acute care hospital which has received and maintains current State designation as a Trauma Center. Categories of trauma facilities in Delaware are as follows:

a. *Regional Level 1 Trauma Center.* — A regional resource trauma center that has the capability of providing leadership and comprehensive, definitive care for every aspect of injury from prevention through rehabilitation.

b. *Regional Level 2 Trauma Center.* — A regional trauma center with the capability to provide initial care for all trauma patients. Most patients would continue to be cared for in this center; there may be some complex cases which would require transfer for the depth of services of a Regional Level 1 or specialty center.

c. *Community Trauma Center.* — An acute care hospital that provides assessment, resuscitation, stabilization and triage of all trauma patients, arranging for timely transfer of those patients requiring the additional resources of a Regional Trauma or Specialty Center and delivering definitive care to those whose needs match the resources of the Community Trauma Center.

d. *Participating hospital.* — An acute care facility which transfers trauma patients with moderate or severe injuries to trauma centers after initial resuscitation. When necessary, this facility may provide care to trauma patients with minor injuries. Participating hospitals contribute data to the Delaware Trauma System Registry and Quality Improvement Program.

(36) “Trauma patient” means any person with actual or potential bodily damage subsequent to an event which exposed the body to an external force or energy.

(37) “Treatment protocols” shall mean written uniform treatment and care plans for emergency and critical patients. The treatment plans for advanced life support must be approved and signed by appropriate physicians and/or medical groups.

(63 Del. Laws, c. 383, § 1; 67 Del. Laws, c. 152, § 5; 70 Del. Laws, c. 192, §§ 1, 2; 70 Del. Laws, c. 453, §§ 1, 2; 72 Del. Laws, c. 137, §§ 20, 21; 77 Del. Laws, c. 319, § 1; 78 Del. Laws, c. 310, § 1; 80 Del. Laws, c. 404, § 3; 81 Del. Laws, c. 265, § 3; 81 Del. Laws, c. 428, § 1.)

### § 9703. Delaware Emergency Medical Services Oversight Council.

(a) There is established the Delaware Emergency Medical Services Oversight Council (DEMSOC). The Council shall consist of the following members:

- (1) A representative of the Office of the Governor appointed by the Governor.
- (2) The Secretary of the Department of Safety and Homeland Security.
- (3) The Director of the Delaware Emergency Management Agency.
- (4) The Secretary of the Department of Health and Social Services.
- (5) The Chair of the Delaware State Fire Prevention Commission.
- (6) The President of the Delaware Volunteer Firefighter’s Association.
- (7) The Chief of the New Castle County Emergency Medical Services.
- (8) The Kent County Administrator.
- (9) The Sussex County Administrator.
- (10) The President of the Delaware Chapter of the American College of Emergency Physicians.
- (11) The State EMS Medical Director.
- (12) The Chair of the Trauma Systems Committee.
- (13) A practicing paramedic, certified and employed in the State, appointed by the Governor.
- (14) The Chair of the DVFA Ambulance Advisory Committee.
- (15) Three at-large members, 1 from each county, appointed by the Governor.
- (16) The President of the Delaware Healthcare Association.
- (17) The Executive Director of the Medical Society of Delaware.
- (18) The Chair of the Delaware Police Chiefs’ Council.
- (19) The Paramedic Commander of the Delaware State Police Aviation Unit.
- (20) The Chair of the Emergency Medical Services for Children (EMSC) Advisory Committee.
- (21) The Chair of the Stroke System Committee.

(b) Members serving by virtue of position may appoint designees to serve in their stead.

(c) The Council shall meet at a minimum of 1 time per year.

(d) An appointed member serves for a term of up to 3 years and is eligible for reappointment. The Governor shall appoint members for staggered terms so that no more than 3 members’ terms expire in any 1 calendar year.

(e) A majority of the membership of the Council shall constitute a quorum. A vacant position is not counted for quorum purposes.

(f) If an appointed member fails to attend 3 successive meetings of the Council without just cause, that member’s position may be deemed vacant and the Governor may appoint a replacement.

(g) The Chairperson of the Council shall be designated from among the members by the Governor and shall serve at the pleasure of the Governor. The Chairperson shall select a Vice Chairperson from the membership of the Council to serve in the Chairperson’s absence.

(h) The Council may adopt bylaws for adopting operating procedures including the election of officers, the conducting of meetings, and other matters to promote the efficient operation of the Council in this performance of its duties under this section.

(i) The Council shall monitor Delaware’s emergency medical services system to ensure that all elements of the system are functioning in a coordinated, effective, and efficient manner in order to reduce morbidity and mortality rates for the citizens of Delaware and to ensure quality of emergency care services.

(j) The Council shall have the following duties and responsibilities:

(1) To examine policies and procedures and evaluate the effectiveness of the EMS system, specifically the respective roles, responsibilities, effectiveness and efficiency of the Office of Emergency Medical Services (OEMS), the State Fire Prevention Commission, the Department of Safety and Homeland Security, the EMS provider agencies and the medical community;

(2) To study, research, plan, evaluate as well as offer guidance to, cooperate with and assist public agencies and private institutions and organizations on methods for the coordination and effective utilization of their emergency medical service programs;

(3) To formulate goals and recommendations, based on objective criteria and data, to be used in evaluating EMS provider agency performance;

(4) To review and make recommendations concerning quality improvement efforts pursuant to this chapter;

(5) To make recommendations to the Office of EMS, the Department of Safety and Homeland Security, the EMS provider agencies and the medical community for improving EMS in Delaware;

(6) To make legislative recommendations to the Governor and General Assembly;

(7) To provide an annual report on or before April 15 of each year to the Governor, General Assembly, interested parties and the public which will outline the performance of all EMS system agencies, comparing that performance to established goals and performance measures. The report shall also estimate the costs of Delaware's EMS medical system. Automatic external defibrillator and cardio-pulmonary resuscitation program performance shall be included in this report. The first report will cover service provided in calendar year 2000 and will be delivered by April 15, 2001;

(8) To make recommendations concerning EMS to the State Fire Prevention Commission. The Commission will consider and act upon those recommendations; and

(9) To conduct a full review of EMS in the State at a minimum of every 5 years.

(k) The Council may request and shall receive from any department, division, commission or agency of the State such reasonable assistance and data as will enable it to properly carry out its functions hereunder.

(l) OEMS shall staff the Council.

(61 Del. Laws, c. 164, § 1; 67 Del. Laws, c. 47, § 50; 67 Del. Laws, c. 152, § 1; 69 Del. Laws, c. 78, § 1; 69 Del. Laws, c. 326, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 453, § 9; 72 Del. Laws, c. 137, § 2; 72 Del. Laws, c. 421, § 1; 73 Del. Laws, c. 218, §§ 1, 2, 3, 4; 73 Del. Laws, c. 368, § 10; 74 Del. Laws, c. 110, § 138; 74 Del. Laws, c. 261, § 1; 77 Del. Laws, c. 378, § 1; 78 Del. Laws, c. 326, § 1; 80 Del. Laws, c. 404, § 4; 81 Del. Laws, c. 118, § 1; 83 Del. Laws, c. 225, § 1.)

### § 9704. Office of Emergency Medical Services — Created; purpose.

(a) The Office of Emergency Medical Services is hereby created. The Office shall be responsible for ensuring the effective coordination and evaluation of the emergency medical services system in Delaware which includes providing assistance and advice for activities related toward the planning, development, improvement and expansion of emergency medical services.

(b) The Office of Emergency Medical Services shall be a state agency within the Division of Public Health, Department of Health and Social Services. The Office of Emergency Medical Services shall report directly to and be responsible to the Director of the Division of Public Health, which is consistent with the health plan for Delaware.

(c) As used in this subchapter, the term "Office" shall refer to the State Office of Emergency Medical Services. In the performance of the functions mandated by this legislation which relate to the planning and evaluation of the emergency medical services system in Delaware, the Office of Emergency Medical Services shall coordinate with the Bureau of Health Planning and Resources Development for technical assistance in emergency medical services planning activities. Specifically, the Bureau of Health Planning and Resources Development shall have the primary responsibility for all data analysis related to the emergency medical services system. This coordination should minimize duplication of effort between the 2 agencies and allow for the effective use of available staff resources within the Department of Health and Social Services.

(d) Except for those activities and responsibilities for basic life support, which are under the jurisdiction of the State Fire Prevention Commission, the Office of Emergency Medical Services shall have jurisdiction over the development, implementation and maintenance of a Statewide Trauma System.

(e) A memorandum of agreement shall be established between the Office of Emergency Medical Services of the Division of Public Health and the State Fire Prevention Commission to foster inclusion and coordination of Basic Life Support Services within the Statewide Trauma System.

(f) The Director of Public Health shall establish a standing Trauma System Committee and ad hoc committees as deemed appropriate to assist in oversight of the Inclusive Statewide Trauma Care System. The standing Trauma System Committee shall convene at least quarterly. Membership on the standing Trauma System Committee will include, but not be limited to, a representative of each of the following constituencies to be selected from the 3 counties within the State:

(1) Trauma rehabilitation professionals

(2) Practicing trauma surgeons

(3) Practicing emergency department physicians

- (4) The Association of Delaware Hospitals
  - (5) Advanced Life Support prehospital providers
  - (6) Basic Life Support prehospital providers
  - (7) The State Fire School
  - (8) Practicing trauma subspecialty physicians
  - (9) Practicing pediatric surgeons or pediatricians
  - (10) Practicing registered nurses involved in trauma patient care
  - (11) Emergency medical dispatchers
  - (12) Hospital administration
  - (13) The Delaware state police aviation section
  - (14) A representative from the State Fire Prevention Commission.
- (g) The Trauma System Committee shall be an advisory group to the Director of Public Health on the following issues:
- (1) Rules governing the operation of Delaware's Inclusive Statewide Trauma Care System, which will be based upon national references such as the American College of Surgeons' Resources for Optimal Care of the Trauma Patient: 1993.
  - (2) Recommendations for corrective action based on the reviews of the following:
    - a. Statewide trauma care system operations, including the monitoring for adherence to adopted policies, procedures, protocols and standards, the availability of appropriate resources and the periodic review of trauma hospital participation (designation) criteria.
    - b. The delivery of emergency medical and hospital services by trauma care service providers to trauma patients.
  - (3) Recommendation for modifications of the policies, procedures and protocols of trauma care as a result of system-wide review.
- (h) Except for those activities and responsibilities for basic life support, which is under the jurisdiction of the State Fire Prevention Commission, the Office of Emergency Medical Services shall have jurisdiction over the development, implementation and maintenance of a statewide stroke system.
- (i) A memorandum of agreement shall be established between the Office of Emergency Medical Services of the Division of Public Health and the State Fire Prevention Commission to foster inclusion and coordination of Basic Life Support Services within the Statewide Stroke System.
- (j) The Director of Public Health shall establish and appoint a standing Stroke System Committee and ad hoc committees as deemed appropriate to assist in oversight of the inclusive statewide stroke care system. The standing Stroke System Committee shall convene at least quarterly. Membership on the standing Stroke System Committee will include, but not be limited to, a representative of each of the following constituencies to be selected from the 3 counties within the State and with best efforts to achieve a balance in membership from each county:
- (1) Stroke rehabilitation professionals, including but not limited to, physical therapists, occupational therapists, and speech language pathologists;
  - (2) Practicing stroke neurologists;
  - (3) Practicing Emergency Department physicians;
  - (4) The Delaware Healthcare Association;
  - (5) Advanced life support prehospital providers;
  - (6) Basic life support prehospital providers;
  - (7) The State Fire School;
  - (8) Practicing neurosurgeons;
  - (9) Practicing neurointerventional radiologists;
  - (10) Practicing registered nurses involved in stroke patient care;
  - (11) Emergency medical dispatchers;
  - (12) Hospital administration or a designee from each acute health-care facility which holds or intends to seek stroke center designation under this title;
  - (13) The Delaware State Police Aviation Section; and
  - (14) A representative from the State Fire Prevention Commission.
- (k) The Stroke System Committee shall be an advisory group to the Director of Public Health on the following issues:
- (1) Recommendations based on Delaware stroke data as determined by the Director of Public Health, and after review of Delaware data as analyzed by the Stroke System Committee, and input from the Committee, as to whether outcomes for Delaware patients will be improved by the adoption of a statewide stroke system. Such recommendations shall be made to the Director of Public Health no later than December 30, 2016. The Director of Public Health shall report the basis for the Directors' decision to the Chairs of the Health and Social Services Committees of the House and Senate.



(2) Rules governing the operation of Delaware's inclusive statewide stroke care system, which will be based upon national references and data based guidelines, as determined by the Director of Public Health with the advice of the Stroke System Committee.

(3) Recommendations for corrective action based on the reviews of the following:

a. Statewide stroke care system operations, including the monitoring for adherence to adopted policies, procedures, protocols and standards, the availability of appropriate resources and the periodic review of stroke hospital and freestanding emergency department participation (designation) criteria.

b. The delivery of emergency medical and hospital services by stroke care service providers to stroke patients.

(4) Recommendation for modifications of the policies, procedures and protocols of stroke care as a result of system-wide review.

(l) Except for those activities and responsibilities for basic life support, which are under the jurisdiction of the State Fire Prevention Commission, the Office of Emergency Medical Services has jurisdiction over the development, implementation, and maintenance of the overdose system of care created under § 9710 of this title.

(m) A memorandum of agreement must be established between the Office of Emergency Medical Services of the Division of Public Health and the State Fire Prevention Commission to foster inclusion and coordination of Basic Life Support Services within the Statewide overdose system of care created under § 9710 of this title.

(63 Del. Laws, c. 383, § 1; 67 Del. Laws, c. 152, § 5; 70 Del. Laws, c. 453, §§ 3-6; 80 Del. Laws, c. 404, § 4; 81 Del. Laws, c. 428, § 2.)

### § 9705. Office of Emergency Medical Services — Functions.

(a) *Personnel.* — It shall be the responsibility of the Office to collect and analyze annually data pertaining to certified emergency medical services personnel in Delaware by levels of training in order to identify possible or potential shortages. Once EMS personnel shortages are identified, the Office shall notify the affected agencies and provide recommended courses of action to alleviate the problem or potential problem. In order to accomplish this task, the following agencies shall be required to provide a listing of the appropriate emergency medical services personnel by organization, level of training and county:

(1) Delaware State Fire Prevention Commission or its duly authorized representative;

(2) Wilmington Medical Center School for Emergency Medical Technicians;

(3) Delaware Committee on Trauma of the American College of Surgeons — advanced trauma life support;

(4) American Heart Association of Delaware — cardiopulmonary resuscitation (CPR) training programs and advanced cardiac life support;

(5) American Red Cross, Delaware Chapter — CPR training and first-aid training;

(6) Delaware Chapter of the American College of Emergency Physicians;

(7) Delaware Chapter of the Emergency Department Nurses Association; and

(8) Any other organization not listed above that provides certified emergency medical training, including CPR.

(b) *Training.* — All organizations providing emergency medical training programs, as listed under the personnel section, shall provide to the Office copies of course curricula and schedules of the availability of training courses. The Office shall monitor EMS training levels to provide information on the availability of training programs for all levels of EMS personnel. In addition, the EMS Office shall keep abreast of all federal training standards to ensure that EMS training agencies in Delaware are aware of regional and national standards. In accordance with § 6711(a)(3) of this title [repealed], the State Fire Prevention Commission shall adopt regulations setting forth the qualifications required for the certification of ambulance attendants. Since advanced life support ambulance personnel are "physicians' assistants" as defined in subchapter VI of Chapter 17 of Title 24, they must have been trained in programs approved by the Delaware State Board of Medical Licensure and Discipline.

(c) *Communications.* — The Office shall:

(1) Through the appropriate county dispatch center directors, monitor and evaluate the effectiveness of the statewide EMS communications system;

(2) Identify resources to improve or augment both the communications system in Delaware and the training of medical dispatchers as needed;

(3) Monitor and evaluate the effectiveness of emergency access numbers in terms of the impact on the EMS system.

(d) *Transportation.* — In conjunction with appropriate EMS providers in Delaware, the Office shall monitor and evaluate emergency medical transportation services in Delaware to ensure that patients in the EMS system have access to effective and efficient transportation to appropriate treatment facilities. Pursuant to § 6709 of this title, all ambulances in Delaware shall be inspected and certified by the Delaware State Fire Prevention Commission or a duly authorized representative thereof. The Delaware State Fire Prevention Commission or its duly authorized representative shall be required to provide to the Office on an annual basis a listing and location of certified ambulances.

(e) *Facilities.* — The Office shall monitor the availability of the various levels of care of EMS facilities and services and shall have the authority to categorize all Delaware emergency receiving facilities and services in accordance with criteria established by the Joint Commission on Accreditation of Hospitals (JCAH) for hospital settings and other appropriate national professional organizations for

nonhospital settings. This authority shall also include the responsibility of categorizing and designating by level of care, when appropriate, specialty care facilities in accordance with the established criteria of the American Medical Association or other appropriate national professional organizations. In addition, the Office shall periodically reevaluate the categorization or designation of emergency care facilities and specialty care services.

(f) *Specialty care units.* — The Office shall identify the categorization of the 7 specialty care areas for EMS which are available to all patients (the specialty care areas are: Trauma, burns, spinal cord, poisoning, acute cardiac, high-risk infant and behavioral emergencies). In addition, the Office shall coordinate the activities of the EMS system to ensure that all patients have access, within a reasonable time period depending on the nature of the illness, to specialty care services. In accordance with this activity, the Office shall have the authority to designate or categorize specialty care units by level of care as specified in the section related to facilities.

(g) *Public safety agencies.* — Based on the data obtained in the section related to personnel, the Office shall monitor and evaluate the activities of public safety agencies to determine the number of trained first responders and to promote their participation, to the maximum level possible consistent with their capabilities, in emergency medical situations.

(h) *Consumer participation.* — All agencies and organizations involved in the EMS system in Delaware should seek reasonable consumer participation in planning, development and organizational activities.

(i) *Access to care.* — The Office shall monitor and evaluate activities of all EMS organizations to ensure that no person is denied emergency treatment or transportation services.

(j) *Patient transfer.* — The EMS system shall provide for transfer of patients to facilities and programs which offer such follow-up care and rehabilitation as is necessary to effect the maximum recovery of the patient. The transfer of emergency patients from the emergency site to the emergency department, specialty care unit and to follow-up care and rehabilitation centers are all within the scope of a total EMS system.

(k) *Coordinated patient recordkeeping.* — The Office shall collect and analyze available data from all providers of the EMS system. This data will be used by the Office, in conjunction with the appropriate EMS providers, to evaluate the overall effectiveness of the system. It is necessary that the data be collected from each level of care, which includes the initial entry point through final discharge from the health care delivery system. EMS agency certification will be contingent upon agency participation in the Statewide EMS data collection system maintained by the Office.

(l) *Public information, prevention and education.* — The Office shall provide programs of public information and education designed to inform residents of Delaware and visitors to the State of the availability of, proper use of and access to emergency medical services. The Office shall also support prevention activities designed to address key categories of illness and injury as identified through data collection. The Office will serve as a clearinghouse for illness and injury prevention activity, and will work to coordinate EMS prevention efforts statewide. These programs shall include elements related to citizen involvement in the administration of prehospital care, such as cardiopulmonary resuscitation and first aid, and information concerning the availability of training programs in Delaware. In addition, the Office shall monitor public information and education programs offered by other EMS providers in Delaware. All EMS provider agencies shall provide a report on their prevention and education activities conducted during the previous year to the Office by January 15 of each year. The Office shall publish an annual report outlining the status of prevention and public education activities throughout the State by May 15 of each year.

(m) *Review and evaluation.* — In conjunction with the health planning agencies and the EMS providers in Delaware, the Office shall conduct and/or coordinate an on-going comprehensive evaluation of the effectiveness of the EMS system, in terms of the impact on the health status of the EMS patients in Delaware.

(n) *Disaster planning.* — The Office shall: (1) Upon request, participate in disaster planning with all organizations that provide emergency medical services to assist with coordination of disaster activities which impact the EMS system, and (2) review all municipal, county and state disaster plans which utilize the emergency medical services system. All organizations involved in planning disaster exercises which impact the EMS system should advise the Office of scheduled disaster exercises. In addition, the Office shall, upon request, participate in disaster exercises for the purpose of evaluation and improvement of the emergency medical services system and make recommendations as needed to the appropriate provider for the refinement of their disaster plans. All disaster planning activities of the Office shall be coordinated with the Delaware Emergency Management Agency as authorized by Chapter 31 of Title 20, and the Department of Health and Social Services Disaster Coordinator.

(o) *Mutual aid agreements.* — The Director of the Office in conjunction with the Division Director shall be authorized to develop and implement mutual aid agreements as may be necessary to ensure continuity of care. These agreements shall be coordinated through and approved by the appropriate EMS providers. These agreements may relate to reciprocity of services, and treatment, transfer and triage protocols to coordinate the provision of services, both within Delaware and across state lines as necessary.

(p) *Semi-automatic external defibrillators.* — (1) The Department of Health and Social Services shall promulgate regulations specific to the use of semi-automatic external defibrillators and shall seek input and review from the Board of Medical Licensure and Discipline, the Delaware EMS Oversight Council and the Delaware State Fire Prevention Commission.

(2) The Office shall coordinate a statewide effort to promote and implement widespread use of semi-automatic external defibrillators and cardio-pulmonary resuscitation to increase the number of publicly available SAEDs to 100 by January 1, 2002, and 200 by January

1, 2004. In addition, the Office shall coordinate a statewide effort to provide, train and maintain a minimum of 5 qualified individuals for each publicly available SAED.

(3) All law-enforcement vehicles on patrol shall be equipped with a semi-automatic external defibrillator by January 1, 2001, subject to appropriations.

(q) *Emergency Medical Services for Children.* — The Office shall provide a program to address the specific emergency medical care of children. This program shall be known as the Emergency Medical Services for Children (EMSC) program.

(1) The EMSC program shall have the power to:

- a. Advise EMS medical direction on the development and implementation of statewide protocols that emphasize pediatric emergency care;
- b. Support pediatric emergency medical technician and paramedic education and training programs; which shall include training in the emergency care of infants and children;
- c. Develop pediatric emergency care standards and a voluntary program to recognize hospitals able to treat and manage pediatric emergencies;
- d. Develop programs for parents and communities which shall identify and reduce barriers to emergency care for children;
- e. Provide information relating to child-specific health promotion and injury prevention;
- f. Focus on recognition of emergencies;
- g. Assist in improving access to appropriate use of the local EMS systems;
- h. Develop and maintain a Special Needs Alert Program to educate EMS providers, and, on a voluntary basis, identify for EMS providers children with special health care needs in the community; and
- i. Analyze pediatric injury/illness data collected through the Office for the purpose of quality management purposes. All quality management proceedings shall be confidential.

(2) There is established the EMSC Advisory Committee. The Committee shall advise the Office on issues concerning EMS care for children, and shall consist of the following representatives:

- a. The State EMS Medical Director;
- b. The State EMS Director;
- c. The Director of Children with Special Health Care Needs of the Division;
- d. The Chair of the Delaware State Fire Prevention Commission or another Commissioner selected by the Chair;
- e. The Chair of the State Trauma System Committee or another member selected by the Chair;
- f. The Chair of School Health Services in the Department of Education or another member selected by the Chair;
- g. Advanced Life Support Agency County EMS Chiefs or Directors in Delaware or another member of the Advanced Life Support Agency selected by the Chief or Director;
- h. The Commander of the State Police EMS Aviation Section;
- i. The President of the Delaware Chapter of the American College of Emergency Physicians or, at the President's discretion, a representative of the Chapter;
- j. The President of the Delaware Chapter of the American Academy of Pediatrics or, at the President's discretion, a representative of the Chapter;
- k. The President of the Delaware Healthcare Association or, at the President's discretion, a representative of the Delaware Healthcare Association;
- l. The President of the Delaware Emergency Nurses Association or, at the President's discretion, a representative of the Emergency Nurses Association who is an emergency nurse licensed and practicing in Delaware;
- m. The President of the Delaware Volunteer Firefighter's Association or, at the President's discretion, a representative of the Delaware Volunteer Firefighter's Association;
- n. The President of the Delaware EMS Association or, at the President's discretion, a representative of the Delaware EMS Association;
- o. The Chair of Safe Kids Delaware or, at the Chair's discretion, a member of Safe Kids;
- p. The Commander of the Health Care Clinic at the Dover Air Force Base or at the Commander's discretion a medical care representative from the Dover Air Force Base;
- q. A Pediatric Emergency Medicine Physician practicing in the State of Delaware; and
- r. Three lay parent representatives of children ages 0-19, 1 from each county, appointed by the Director of the Division of Public Health.

(63 Del. Laws, c. 383, § 1; 67 Del. Laws, c. 152, § 5; 69 Del. Laws, c. 78, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 137, §§ 22, 24, 25; 75 Del. Laws, c. 141, § 3; 77 Del. Laws, c. 319, § 1; 78 Del. Laws, c. 326, § 2.)

**§ 9706. Office of Emergency Medical Services — Additional functions.**

(a) In order to monitor and evaluate the effectiveness of the EMS system, the Office must be notified of any proposed new service or major service modification within the emergency medical services system in Delaware.

(b) Copies of applications for federal, state and county emergency medical service grant funds shall be sent to the Office.

(c) All proposed legislation pertaining to the EMS system in Delaware shall be reviewed by DEMSOC with recommendations from the Office.

(d) The Office shall, with the consent of the Director of the Division of Public Health, be authorized to make news releases pertaining to the emergency medical services system as required in order to inform the public on issues pertinent to the health and well being of the citizens of Delaware.

(e) The Office shall be required to provide routine progress reports identifying the accomplishments and the problem areas within the system to DEMSOC at its regularly scheduled meetings. In addition, an annual summary report shall be sent to the Chairperson of DEMSOC through the Division Director by August 15 of each year.

(f) The Office is authorized and empowered to apply for, accept and disburse grants, gifts and contributions from the government, individuals, foundations, corporations and other organizations, agencies or institutions on behalf of the EMS system in Delaware.

(g) The Director of Public Health shall, except for those activities and responsibilities for basic life support, which is under the jurisdiction of the State Fire Prevention Commission:

(1) Use the Trauma System Committee recommendations as the basis for establishing a plan for the implementation and maintenance of Delaware's Inclusive Statewide Trauma Care System. The State Trauma System Plan shall address each component of trauma care as outlined in national references such as Model Trauma Care System Plan, HRSA-BHRD, September 1990 and subsequent revisions. These include, but are not limited to:

a. *Prehospital care.* — Standardized and statewide policies, procedure and protocols to be used by all emergency medical service providers and licensed personnel for the identification, treatment and transport of trauma patients.

b. *Prevention.* — Efforts to decrease the numbers and severity of injuries, resulting in decreased demand for care.

c. *Hospital care.* — Standards and criteria for hospital personnel, equipment and designation that identify the necessary resources that hospitals must have in order to be recognized within Delaware's Inclusive Statewide Trauma Care System as a specified category trauma facility. These standards and criteria shall be consistent with those identified in national trauma system references, such as the American College of Surgeons' Resources for Optimal Care of the Injured Patient: 1993 and subsequent revisions. All expenses associated with utilizing a nationally recognized accreditation team to verify a hospital's compliance with hospital designation criteria will be the responsibility of the hospital being surveyed.

d. *Rehabilitative care.* — Standards for the follow-up care for persons with disabilities resulting from injuries.

e. *Trauma continuing education.* — The on-going trauma related education for trauma care system personnel/providers to maintain knowledge and skills.

f. *Trauma care system evaluation.* — Monitor policies and procedures regarding the effectiveness/impact of trauma care systems.

(2) The Director of Public Health shall have the authority to promulgate rules for the management of all components of Delaware's Inclusive Statewide Trauma Care System, and shall seek input and review from the Trauma System Committee.

(3) Maintain a program of trauma care system evaluation, including a trauma data collection and registry system and a mechanism for evaluating and monitoring system performance throughout the continuum of trauma care.

(h) The Director of Public Health shall have the authority to promulgate rules for EMS provider recognition and compliance with an advance health-care directive that has become effective pursuant to § 2503(c) of this title, or Delaware Medical Orders for Scope of Treatment and those from other states that have become effective pursuant to Chapter 25A of this title, and shall seek input and review from the Board of Medical Licensure and Discipline, the Delaware EMS Oversight Council and the Delaware State Fire Prevention Commission. For purposes of this subsection, "EMS provider" shall mean providers certified by the Delaware State Fire Commission or the Board of Medical Licensure and Discipline. EMS providers acting in accordance with the regulations promulgated hereunder shall be immune from criminal or civil liability pursuant to § 2510 of this title.

(1), (2) [Repealed.]

(i) The Director of Public Health shall, except for those activities and responsibilities for basic life support, which is under the jurisdiction of the State Fire Prevention Commission:

(1) Use the Stroke System Committee recommendations as the basis for establishing a plan for the implementation and maintenance of Delaware's inclusive statewide stroke care system.

(2) The State Stroke System Plan shall address each component of stroke care as outlined in national references. These include, but are not limited to:

a. *Prehospital care.* — Standardized and statewide policies, procedure and protocols to be used by all emergency medical service providers and licensed personnel for the identification, treatment and transport of stroke patients.

b. *Prevention.* — Efforts to decrease the numbers and severity of strokes resulting in decreased demand for care.

c. *Hospital care.* — Standards and criteria for hospital personnel, equipment and designation that identify the necessary resources that hospitals must have in order to be recognized within Delaware’s inclusive statewide stroke care system as a specified category stroke facility. These standards and criteria shall be consistent with those identified in national stroke system references produced by national accreditation and certification organizations. All expenses associated with utilizing a nationally recognized accreditation team to verify a hospital’s compliance with hospital designation criteria will be the responsibility of the hospital being surveyed.

d. *Rehabilitative care.* — Standards for the follow-up care for persons with disabilities resulting from injuries.

e. *Stroke continuing education.* — The ongoing stroke-related education for stroke care system personnel/providers to maintain knowledge and skills.

f. *Stroke care system evaluation.* — Monitor policies and procedures regarding the effectiveness/impact of stroke care systems.

(3) Have the authority to promulgate rules for the management of all components of Delaware’s inclusive statewide stroke care system, and shall seek input and review from the Stroke System Committee.

(4) Maintain a program of stroke care system evaluation, including a stroke data collection and registry system and a mechanism for evaluating and monitoring system performance throughout the continuum of stroke care.

(j) The Director of the Division of Public Health shall have the authority to promulgate rules, in consultation with the Delaware Emergency Medical Services Advisory Council and the Director of the Division of Professional Regulation, to combine emergency medical services data and emergency department data about nonfatal overdoses with data from the Prescription Monitoring Program database.

(63 Del. Laws, c. 383, § 1; 67 Del. Laws, c. 152, § 5; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 453, § 7; 72 Del. Laws, c. 137, § 28; 72 Del. Laws, c. 360, § 1; 75 Del. Laws, c. 194, § 1; 77 Del. Laws, c. 319, § 1; 80 Del. Laws, c. 18, § 3; 80 Del. Laws, c. 404, § 4; 81 Del. Laws, c. 429, § 3.)

## § 9707. Confidentiality of quality review program and participants.

(a) *Confidentiality of quality review program and participants.* — As used in this section, “records” means the recordings of interviews and all oral or written reports, statements, minutes, memoranda, charts, statistics, data and other documentation generated by the Trauma System Committee or its subcommittees for the stated purposes of trauma system medical review or quality care review and audit.

All quality management proceedings shall be confidential. Records of the Trauma System Committee, its quality care review committee and members, attendees and visitors at meetings held for stated purposes of trauma system medical review or quality care review and audit shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceeding. Raw data shall not be available for public inspection nor is it a public record within the meaning of the Delaware Freedom of Information Act [Chapter 100 of Title 29].

(b) *Confidentiality of Delaware Emergency Medical Services Oversight Council (DEMSOC) quality review program and participants.* — As used in this section, “records” means the recordings of interviews and all oral or written reports, statements, minutes, memoranda, charts, statistics, data and other documentation generated by the Delaware Emergency Medical Services Oversight Council (DEMSOC) or its subcommittees for the stated purposes of the Emergency Medical Services System medical review or quality care review and audit. All quality management proceedings shall be confidential. Records of DEMSOC, its quality care review subcommittees and members, attendees and visitors at meetings held for stated purposes of the Emergency Medical Services Systems medical review or quality care review and audit shall not be available for public inspection nor are they a public record within the meaning of the Delaware Freedom of Information Act, and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceeding. Raw data and original records relating to medical care shall not be available for public inspection nor are they a public record within the meaning of the Delaware Freedom of Information Act, except to the extent that such raw data and original records relating to medical care would have been subject to disclosure or discovery pursuant to other statute or court rule.

(c) *Confidentiality of Emergency Medical Services for Children Advisory Committee.* — Records of the EMSC Advisory Committee, its quality care review committee and members, attendees and visitors at meetings held for stated purposes of pediatric emergency care system medical review or quality care review and audit shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena or admission into evidence in any judicial or administrative proceeding. Raw data shall not be available for public inspection nor is it a public record within the meaning of the Delaware Freedom of Information Act [Chapter 100 of Title 29].

(d) *Confidentiality of Stroke Quality Review Program and participants.* — As used in this section “records” means the recordings of interviews and all oral or written reports, statements, minutes, memoranda, charts, statistics, data and other documentation generated by the Stroke System Committee or its subcommittees for the stated purposes of stroke system medical review or quality care review and audit. All quality management proceedings shall be confidential. Records of the Stroke System Committee, its Quality Care Review Committee and members, attendees and visitors at meetings held for stated purposes of stroke system medical review or quality care review and audit shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding. Raw data shall not be available for public inspection nor is it a public record within the meaning of the Delaware Freedom of Information Act [Chapter 100 of Title 29].

(e) *Immunity.* — No person shall be subject to, and shall be immune from, any claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendation made while

discharging any duty or authority under this chapter, so long as such person acted in good faith without malice, and within the scope of his or her duty or authority under this chapter or any other provisions of the Delaware law, federal law or regulations or duly adopted rules and regulations providing for the administration of this chapter, good faith being presumed until proven otherwise, with malice required to be shown by the complainant.

(f) *Confidentiality of overdose system of care review program and participants.* — (1) For purposes of this subsection, “records” means recordings of interviews and all oral or written reports, statements, minutes, memoranda, charts, statistics, data, and other documentation generated by the Overdose System of Care Committee or its ad hoc committees for the stated purpose of overdose system medical review or quality care review and audit.

(2) All overdose system medical review or quality management proceedings are confidential.

(3) Records and raw data collected or created by the Overdose System of Care Committee and members, attendees, and visitors at meetings held for the stated purpose of overdose system medical review, quality care review, or audit are confidential and privileged and are be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding and are specifically excluded from the definition of public record as set forth at § 10002 of Title 29.

(70 Del. Laws, c. 453, § 8; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 52, § 1; 78 Del. Laws, c. 326, § 3; 80 Del. Laws, c. 404, § 4; 81 Del. Laws, c. 428, § 3.)

### § 9708. Public safety personnel rendering emergency care exempt from liability.

(a) Public safety personnel who in good faith renders emergency care or rescue assistance at the scene of any emergency or who undertakes to transport any victim thereof to the nearest medical facility is not liable for any civil damages as a result of any act or omission in rendering the emergency care if all of the following apply:

(1) The public safety personnel has any required, relevant, current training or certification.

(2) The public safety personnel did not cause the injuries or death wilfully, wantonly, or recklessly or by gross negligence.

(b) This section may not be construed to require public safety personnel to administer first aid or emergency care to an individual who is ill or injured if such individual objects.

(81 Del. Laws, c. 265, § 4.)

### § 9709. Advanced Life Support Standards Committee.

(a) The Advanced Life Support Standards Committee is created for the purpose of assisting the Board of Medical Licensure and Discipline in developing standards for advanced life support services. The Standards Committee is composed of the Chairperson and 20 members. The Board of Medical Licensure and Discipline shall appoint the Chairperson. The Board of Medical Licensure and Discipline shall select the other members of the Standards Committee from the names submitted to the Board by resolution of the following organizations:

(1) The American College of Emergency Physicians, 3 members with 1 member representing each county.

(2) The American College of Surgeon’s Committee on Trauma, 1 member.

(3) The Medical Society of Delaware, 1 member.

(4) The Delaware Chapter of the Emergency Department Nurses Association, 1 member.

(5) Sussex County Firefighter’s Association, 1 member who is an active practicing ambulance attendant.

(6) Kent County Firefighter’s Association, 1 member who is an active practicing ambulance attendant.

(7) New Castle County Firefighter’s Association, 1 member who is an active practicing ambulance attendant.

(8) The State of Emergency Medical Services Office, 1 member.

(9) The State Fire Prevention Commission, 1 member.

(10) New Castle County government, 1 member.

(11) Kent County government, 1 member.

(12) Sussex County government, 1 member.

(13) The City of Wilmington, 1 member.

(14) The City of Dover, 1 member.

(15) The Delaware Chapter of the American Heart Association, 1 member.

(16) The Division of Public Health, 1 member.

(17) Delaware State Fire School, 1 member.

(18) The chief or director of each county paramedic service shall submit 1 name of a practicing paramedic, certified and employed in the State for selection to the Board of Medical Licensure and Discipline — from these 3 names, 1 member.

(b) Each member serves at the pleasure of the organization that member represents and each member’s successor shall be chosen in a like manner. The Standards Committee shall meet at the call of the Chairperson of the Standards Committee or the Chairperson of the Board of Medical Licensure and Discipline.

(c) The Standards Committee shall provide technical assistance to the Board of Medical Licensure and Discipline regarding all of the following:

- (1) Establishing of minimum standards for advanced life support services.
- (2) Reviewing curricula for training programs submitted to the Board of Medical Licensure and Discipline.
- (3) Providing recommendations on proposed curricula for training programs.

(81 Del. Laws, c. 265, § 5.)

### § 9710. Overdose system of care.

(a) The Secretary shall create an overdose system of care to coordinate the treatment and care provided to individuals who have overdosed or require acute management of substance use disorder, including opioid use disorder.

(b) (1) The Secretary may adopt regulations, policies, and procedures to permit the Director of the Division of Substance Abuse and Mental Health to designate a facility as a stabilization center.

(2) A facility may be designated as a stabilization center if the facility meets federal and State requirements to receive a patient from Emergency Medical Services and can do all of the following:

- a. Provide medical care and supervision after an overdose.
- b. Provide medical care and supervision for acute management needs for substance use disorder.
- c. Initiate medication-assisted treatment.
- d. Refer individuals to other services.

(c) (1) The Secretary may adopt regulations, policies, and procedures to designate a facility as an overdose system of care center.

(2) The Secretary must use a guideline and evidence-based process as recommended by the Overdose System of Care Committee to determine designation criteria.

(d) The Secretary may adopt regulations, policies, and procedures to establish other distinct categories of care in the overdose care system as supported by evidence and recommended by nationally recognized guidelines and the Overdose System of Care Committee.

(e) The Secretary may suspend or revoke a designation under this section if a facility fails to meet the standards established under this section.

(f) The Director of the Division of Public Health may include an acute health care facility, hospital, freestanding emergency department, or emergency medical services provider in the overdose system of care if the entity does all of the following:

- (1) Participates in the care of patients who have overdosed or require acute management for substance use disorder.
- (2) Contributes data required by the Director of the Division of Public Health or the Director of the Division of Substance Abuse and Mental Health.
- (3) Participates in overdose system of care quality improvement.

(81 Del. Laws, c. 428, § 4.)

### § 9711. Overdose System of Care Committee.

(a) The Secretary shall establish an Overdose System of Care Committee to assist in oversight of the overdose system of care.

(1) The Co-Chairs of the Overdose System of Care Committee are as follows:

- a. The Director of the Division of Public Health, or a designee appointed by the Director of the Division of Public Health.
- b. The Director of the Division of Substance Abuse and Mental Health, or a designee appointed by the Director of the Division of Substance Abuse and Mental Health.

(2) The Overdose System of Care Committee must include all of the following, appointed by the Secretary:

- a. One member from the Department of Homeland Security.
- b. One member from the Department of Correction.
- c. The Director of the Division of Medicaid and Medical Assistance or their designee.
- d. One member from the Drug Overdose Fatality Review Commission.
- e. One member from the State Fire Prevention Commission.
- f. One member who is the Chair of the Behavioral Health Consortium.
- g. One member who is an advanced life support prehospital provider.
- h. One member who is a basic life support prehospital provider.
- i. One member who is an emergency medical dispatcher.
- j. One member who is a law-enforcement officer.
- k. One member from the Delaware Healthcare Association.
- l. One member who is an emergency medicine physician.

m. One member, or a designee appointed by the member, who is a hospital administrator from each acute health-care facility which holds or intends to seek designation as an overdose system of care center under § 9710 of this title.

n. Three members who are addiction treatment professionals, such as a physician, nurse, mental health provider, Nationally Certified Peer Recovery Specialist, or treatment administrator.

(3) The Overdose System of Care Committee shall meet at least quarterly.

(4) The Overdose System of Care Committee may establish ad hoc committees as deemed appropriate.

(b) The Overdose System of Care Committee shall advise the Director of Public Health and the Director of the Division of Substance Abuse and Mental Health on all of the following:

(1) Improving outcomes for Delaware overdose patients that are based on Delaware drug misuse, overdose, and death data.

(2) Rules governing the operation of the overdose system of care facility, under § 9710 this title.

(3) Recommendations to improve or correct problems identified regarding the following:

a. Overdose system of care operations, including the monitoring for adherence to adopted policies, procedures, protocols, and standards.

b. The delivery of services by emergency medical services and health care service providers to overdose patients.

c. The availability of appropriate resources.

d. The periodic review of pre-hospital, hospital, freestanding emergency department, and stabilization center designation criteria.

(4) Recommendation for modifications of the policies, procedures, and protocols of the overdose system of care as a result of system-wide review.

(c) The Overdose System of Care Committee shall function in cooperation with the Behavioral Health Consortium, as well as other state health policy activities.

(d) The Overdose System of Care Committee may not do either of the following:

(1) Direct or interfere with a state agency or a service provider's internal review process for investigating and evaluating critical incidents and deaths.

(2) Direct Department of Health and Social Services resources, personnel, or activities.

(81 Del. Laws, c. 428, § 4; 83 Del. Laws, c. 383, § 2.)



**Part X**  
**Paramedic and Other Emergency Medical Service Systems**  
**Chapter 98**  
**Paramedic Services**

**§ 9801. Purpose.**

(a) It is the purpose of this chapter to establish a statewide paramedic program under the direction of the Office of Emergency Medical Services, Division of Public Health, Department of Health and Social Services.

(b) The paramedic program includes a coordinated advanced life support system, under qualified medical supervision, which has the responsibility for providing a rapid response capability in the delivery of emergency medical services to individuals who become unexpectedly ill or incapacitated or who are otherwise placed in a position where highly skilled medical assistance must be rendered to sustain or maintain such individual prior to institutional health care.

(c) The paramedic services program shall be utilized for medical emergencies, either at the scene or while the patient is in transit to a health facility.

(d) It is the further purpose of this chapter to provide a program which shall have a direct impact on the morbidity and mortality rates of this State and which, over a period of time, will also reduce health-care costs to each emergency patient.

(e) It is the further purpose of this chapter to establish a framework for the creation of an effective and efficient means for the provision of advanced life support services to the citizens of the State regardless of their economic status, who require such services without prior inquiry as to the patient's ability to pay.

(f) This chapter is intended to promote the public health, safety and welfare of the citizens of this State by providing for the creation of a statewide advanced life support services system, in conjunction with the efforts of all providers of emergency medical services in this State, with uniform standards for all such providers of advanced life support services.

(g) It is the further purpose of this chapter to insure that emergency patients requiring advanced life support services are transported from the scene of a medical emergency to the nearest emergency medical institution or the institution of their choice, within reason, that possesses the equipment and staff resources to immediately attend to the particular needs of the patient. This statement is tempered by the understanding that, in certain circumstances, it may be necessary to bypass the closest medical facility if specialized medical care is required. It shall also be understood that the use of paramedics to assist in the transfer of patients to facilities and programs which offer such follow-up care and rehabilitation as is necessary to effect the maximum recovery of the patient, shall be permitted when deemed medically necessary.

(67 Del. Laws, c. 152, § 6; 70 Del. Laws, c. 192, § 7.)

**§ 9802. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Administrator" shall mean the program chief of the paramedic services responsible for advanced life support and the administration of the Delaware Paramedic Services Act;

(2) "Advanced life support" (ALS) shall have the same definition as is set forth in Chapter 97 of this title;

(3) "Basic life support" (BLS) shall have the same definition as is set forth in Chapter 97 of this title;

(4) "Board" shall mean the Board of Medical Licensure and Discipline;

(5) "Certification" means original certification as a paramedic by the Board of Medical Licensure and Discipline.

(6) "County" or "counties" shall refer singularly or collectively to New Castle, Kent and Sussex Counties of the State;

(7) "County paramedic service" shall mean the paramedic service operated pursuant to this chapter by a county with its own employees or under contract with another governmental entity;

(8) "Criminal history" means a person's entire criminal history record from the State Bureau of Identification and the person's entire federal criminal history record maintained by the Federal Bureau of Investigation.

(9) "Decertification" means the cancellation or revocation of the certificate issued by Board of Medical Licensure and Discipline to a paramedic.

(10) "Department" shall mean the Delaware Department of Health and Social Services;

(11) "Emergency medical services (EMS) provider" shall mean individual providers certified by the Delaware State Fire Prevention Commission or the Office of EMS, or emergency medical dispatchers certified by the National Academy of Emergency Medical Dispatch.

(12) "Emergency medical services (EMS) provider agency" shall mean a provider agency certified by the Delaware State Fire Prevention Commission or the Office of EMS, or an emergency medical dispatch center under contract with the Department of Safety and Homeland Security.

(13) "Emergency medical unit" shall mean an ambulance, rescue vehicle or any other specialized vehicle staffed by EMS providers and other certified or licensed medical care providers, and utilized solely for providing mobile pre-hospital care and other emergency medical treatment;

(14) “Medical command facility” shall mean the distinct unit within a hospital which meets the operational, staffing and equipment requirements established by the Division of Public Health for providing medical control to the EMS providers. Any hospital that operates an emergency medical facility and desires to be designated as a medical command facility shall maintain and staff such facility on its premises and at its own expense with the exception of base station communication devices which shall be an authorized shared expense pursuant to the provisions of this chapter;

(15) “Medical control” shall mean an order or directive given to an EMS provider by an authorized medical control physician. These orders or directives shall normally be provided from a specifically authorized and designated medical command facility with such medical supervision supplying professional support to the EMS provider through radio or telephonic communication for on-scene and in-transit basic and advanced life support services;

(16) “Medical control physician” shall mean any physician certified by the American Board of Emergency Medicine or the American Board of Osteopathic Emergency Medicine, or their successors, or a physician certified in Advanced Trauma Life Support (ATLS), Advanced Cardiac Life Support (ACLS) and Pediatric Advanced Life Support (PALS) or other courses approved by the Office of Emergency Medical Services who is credentialed by the hospital within which a medical command facility is located and who is authorized by the medical command facility to give medical control commands via radio or other telecommunication devices to an EMS provider. When a medical control physician establishes contact with an EMS provider, the EMS provider shall, solely for the purpose of compliance with the Medical Licensure and Discipline Act, be considered to be operating under the license of said medical control physician;

(17) “Office” shall mean the Office of Emergency Medical Services, of the Division of Public Health, Department of Health and Social Services;

(18) “Paramedic staff hour” shall mean 1 full hour of a paramedic on duty.

(19) “Pre-hospital care” shall mean any emergency medical service, including advanced life support, rendered by an emergency medical unit before and during transportation to a hospital or other facility, and upon arrival at the facility until such care is assumed by the facility’s staff;

(20) “Service and/or training reciprocity agreements” shall mean written agreements negotiated between 2 counties or between a county and an adjoining state or a governmental entity of an adjoining state and approved pursuant to the provisions of this chapter which provide for the scheduled delivery of paramedic services by paramedics to citizens of this State or a neighboring state by personnel certified to render such services by this State or a neighboring state, or such similar agreements as are required by and between the counties of this State, in order to effectively and efficiently deliver paramedic services. Such agreements may also include provisions that provide for the temporary rotation of paramedics and/or equipment between the counties of this State in order to provide such personnel with proper experience and training opportunities, address seasonal demands, or adequately respond to a disaster or severe emergency incident. All such agreements shall include any financial terms, or other considerations included as part of the agreement;

(21) “State EMS Medical Director” shall mean a physician who is board-certified by the American Board of Emergency Medicine and/or by the Osteopathic Board of Emergency Medicine and who shall be the chief physician for the statewide emergency medical system and under whose license all EMS providers shall operate for the purpose of delivering the standing orders of the statewide standard treatment protocol;

(22) “Statewide ALS treatment protocol” shall mean written and uniform treatment and care plans for emergency and critical patients statewide that constitute the standing orders of paramedics. The treatment protocol for advanced life support must be approved and signed by the State EMS Medical Director and the Director of the Division of Public Health, Department of Health and Social Services. The treatment protocol shall be prepared by the Board of Medical Licensure and Discipline. In preparing and, from time to time, amending the statewide ALS treatment protocol, the Board shall consult with the State EMS Medical Director and the ALS Standards Committee of the Board of Medical Licensure and Discipline.

(23) “Statewide BLS treatment protocol” shall mean written and uniform treatment and care plans for emergency and critical patients statewide that constitute the standing orders of basic life support providers. The treatment protocol shall be prepared by the Board of Medical Licensure and Discipline. The treatment protocol for basic life support must be approved and signed by the State EMS Medical Director, the BLS Medical Director and the Director of the Division of Public Health, Department of Health and Social Services. The treatment protocol for basic life support shall be adopted and enacted by the State Fire Prevention Commission. In preparing and, from time to time, amending statewide BLS treatment protocol, the Board shall consult with the EMS Medical Director, the ALS Standards Commission and the State Fire Prevention Commission. The Statewide BLS treatment protocol shall be adopted by June 30, 2000, and in use by all EMS providers by January 1, 2002.

(67 Del. Laws, c. 152, § 6; 70 Del. Laws, c. 147, § 23; 70 Del. Laws, c. 192, §§ 3, 8; 70 Del. Laws, c. 341, § 1; 72 Del. Laws, c. 137, §§ 7-15; 73 Del. Laws, c. 176, § 5[6]; 73 Del. Laws, c. 368, § 1; 74 Del. Laws, c. 110, § 138; 77 Del. Laws, c. 319, § 1; 78 Del. Laws, c. 310, §§ 2, 3.)

### § 9803. Statewide paramedic system.

(a) Except for those activities and responsibilities for basic life support and other emergency services which are under the jurisdiction of the State Fire Prevention Commission, the Office shall have jurisdiction over the development, implementation and maintenance of a statewide paramedic system. As part of its responsibilities, the Office shall:

(1) Hire an administrator and staff to carry out the intent of this legislation, which shall include identifying the minimum number of paramedics that are required to be hired by a county so as to achieve advanced life support coverage throughout the State;

(2) Advise in the development of standards for the selection of students to the didactic, clinical, and field training portion of paramedic advanced training.

(3) Assure reasonable conditions and qualifications for certification of any person serving as a paramedic that meets or exceeds the advanced life support standard of the United States Department of Transportation;

(4) Assure that county boundaries do not become barriers to the effective and efficient deployment of paramedic units by coordinating the development of and approving service and/or training reciprocity agreements between counties;

(5) Approve or deny the request of a hospital to become designated as a medical command facility. Such approval, denial or subsequent revocation or limitation of such designation shall be based on the ability of the hospital to comply with the operational and staffing requirements prescribed for medical command facilities by the Division of Public Health. In making decisions pursuant to this paragraph, the Office shall seek the advice of the Board of Medical Licensure and Discipline;

(6) Assure that training and continuing education opportunities required for paramedic certification are reasonably accessible from a geographic standpoint.

(b) A "memorandum of agreement" shall be established between the Office of Emergency Medical Services, of the Division of Public Health, Delaware State Police, State Fire Prevention Commission, Board of Medical Licensure and Discipline and any other agency serving as a component to the emergency medical services system in compliance with their respective agency's statutory provisions. To foster continuity and program coordination, the Office shall enforce each such memorandum of agreement.

(c) In order to provide statewide paramedic services, the counties shall provide the following minimum number of paramedic staff hours: 122,640 paramedic staff hours per year for New Castle County; 52,560 paramedic staff hours per year for Kent County; and 87,600 paramedic staff hours per year for Sussex County. The Secretary of the Department of Health and Social Services shall have the authority, subject to appropriation, to increase the minimum number of paramedic staff hours to ensure the efficient and effective operation of the statewide paramedic services program. At any time after enactment into law, following submission of an application by New Castle County subject to approval by the Secretary of the Department of Health and Social Services, the paramedic staff hours for New Castle County shall increase by 17,520 paramedic staff hours per year until January 1, 2001, at which time it shall increase by an additional 17,520 paramedic staff hours.

(d) Each operating paramedic unit should be continuously staffed by 2 paramedics. Notwithstanding this requirement, the Board of Medical Licensure and Discipline, following review and approval by the State EMS Medical Director and ALS Standards Committee, shall have the authority to grant approval to the county paramedic services to conduct pilot programs utilizing other staff configurations including but not limited to the number and type of staff on each operating ALS unit.

(67 Del. Laws, c. 152, § 6; 70 Del. Laws, c. 147, § 24; 70 Del. Laws, c. 192, § 4; 71 Del. Laws, c. 300, §§ 1, 2; 72 Del. Laws, c. 137, §§ 16, 30; 77 Del. Laws, c. 319, § 1.)

### **§ 9804. Paramedic Advisory Council [Repealed].**

Repealed by 72 Del. Laws, c. 137, § 3, effective July 12, 1999.

### **§ 9805. Paramedic Administrator.**

The Paramedic Administrator shall be employed within the Office of Emergency Medical Services responsible directly to the Director of the Office of Emergency Medical Services. The Paramedic Administrator shall be a state employee within the Merit System and shall be responsible for the following:

(1) Hiring sufficient personnel to provide staff and clerical support for the office;

(2) Verifying certification from the Board for each paramedic employed by a county or its subcontractor;

(3) Administering and coordinating all activities of the program including periodic inspections;

(4) Developing appropriate uniforms as required;

(5) Developing and negotiating contracts with county paramedic services;

(6) Developing annual budgets;

(7) Procuring the necessary equipment to carry out the requirements of this legislation and following the current state bidding and procurement policies for equipment; i.e., vehicles, communication equipment, medical equipment and uniforms as required;

(8) Develop rules governing the operation of programs that provide paramedical instruction to ensure compliance with the ALS Standards of the Board of Medical Licensure and Discipline.

(9) Providing reports of activities as required by the Director of the Office of Emergency Medical Services; and

(10) Monitoring paramedic staff hours in each county.

(11) Have the authority to suspend a paramedic from patient treatment or to permit limited practice for the duration of an investigation of the paramedic by the Division of Professional Regulation.

(67 Del. Laws, c. 152, § 6; 70 Del. Laws, c. 192, §§ 5, 6; 71 Del. Laws, c. 300, § 3; 72 Del. Laws, c. 137, § 17; 73 Del. Laws, c. 368, § 2; 77 Del. Laws, c. 319, § 1.)

### § 9806. EMS medical directors.

(a) There shall be 5 part time EMS Medical Directors: 1 State EMS Medical Director, 3 county EMS medical directors and 1 Basic Life Support EMS Director. Each county EMS medical director shall practice emergency medicine in the county in which the county director serves as a director, unless otherwise approved by the Office of Emergency Medical Services. The State EMS Medical Director shall supervise all EMS Medical Directors. The Basic Life Support EMS Medical Director shall serve as an advisor for basic life support to the State Fire Prevention Commission. An EMS Medical Director shall be available at all times to advise supervising physicians, EMS providers and EMS provider agencies.

(b) As part of their responsibilities, the EMS medical directors shall:

(1) Provide medical oversight and prospective, concurrent and retrospective medical quality control of advanced life support, basic life support and emergency medical dispatch;

(2) Establish and ensure compliance with standing orders and treatment protocols;

(3) Provide review and evaluate the medical interventions of the EMS providers;

(4) Coordinate with and advise the Office of EMS, State Fire Prevention Commission and provider agencies of any deficiencies within the system with suggested remedies;

(5) Monitor the EMS providers for skill degradation and recommend appropriate remedies to the Office of EMS, the State Fire Prevention Commission and the provider agencies;

(6) Offer technical assistance to all EMS providers and assist in the provision of patient care while functioning as an EMS Medical Director; and

(7) Have authority to suspend EMS providers immediately from patient treatment for a period not to exceed 30 days, if they determine that it is necessary in order to prevent a clear and immediate danger to the public health.

(c) Each EMS medical director shall be employed by the State, by contract or otherwise, and shall be a board certified emergency physician actually involved in the practice of emergency medicine.

(d) The EMS medical directors shall be appointed by the Director of the Division of Public Health who shall consult with the Board of Medical Licensure and Discipline as part of the selection process.

(67 Del. Laws, c. 152, § 6; 70 Del. Laws, c. 192, § 9; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 341, § 2; 71 Del. Laws, c. 300, § 4; 72 Del. Laws, c. 137, § 19; 73 Del. Laws, c. 368, § 3; 74 Del. Laws, c. 101, §§ 1-4; 77 Del. Laws, c. 319, § 1.)

### § 9807. Paramedics.

(a) A paramedic may provide such paramedic services as are set forth in the paramedic's certificate if such services are provided under the supervision of a physician, or in any context where voice contact by radio or telephone is monitored by a physician; and such paramedic may provide advanced life support where authorized to do so by a physician.

(b) If direct voice communication between a physician and a paramedic fails or is technically impossible, the paramedic may perform any emergency medical service for which the paramedic is certified, in compliance with treatment protocols set forth by the Board, when the life of the patient is in immediate danger and requires such care for its preservation.

(67 Del. Laws, c. 152, § 6; 70 Del. Laws, c. 186, § 1.)

### § 9808. Role of county governments.

(a) Each county shall participate in the operation and funding of the statewide paramedic services program, and shall provide the Office with all necessary information requested by the Secretary of the Department of Health and Social Services in the time frames and in the format prescribed.

(b) Any paramedic employed by a county or its subcontractor must be certified by the Administrator and the State Paramedic Medical Director in accordance with the standards of the Board. Direct initial training costs shall be paid partially at state expense, based on the results of an annual needs assessment conducted by the Office.

(c) The counties shall be bound by the rules, regulations, requirements and procedures established pursuant to this chapter.

(d) The authority to select, discipline and terminate a paramedic or any administrative staff authorized as a shared expense shall reside with the county or its subcontractor, except that suspension or revocation of a paramedic certification for reasons covered by § 9811 of this title shall be conducted in accordance with this chapter.

(e) A county may choose to operate its own paramedic service using regular county employees entirely, or it may contract portions of its service to other governmental entities.

(f) If a county elects in the design of its paramedic service to exceed the training standards, minimum number of paramedic staff hours, or otherwise exceed the requirements established in accordance with this chapter, the county shall be 100% liable for any additional cost. At a minimum, a county shall deploy the number of paramedics and paramedic units determined to be necessary to meet the operational requirements of this chapter.

(67 Del. Laws, c. 152, § 6; 71 Del. Laws, c. 300, § 5; 72 Del. Laws, c. 137, §§ 29, 31; 77 Del. Laws, c. 84, § 178; 78 Del. Laws, c. 310, § 4.)

### § 9809. Certification.

(a) No individual shall represent that individual's own self as a paramedic certified by this State unless the person so represented is in fact certified by the Board.

(b) No person nor governmental agency shall represent itself as a paramedic service, emergency medical service, or similar type of service certified by this State unless such person or governmental agency is in fact certified by the Department.

(c) No person shall provide, offer nor advertise to provide advanced life support services outside a hospital, unless so authorized by law.

(d) Notwithstanding any other provision of this chapter, any paramedic who has been certified by the Board of Medical Licensure and Discipline prior to the effective date of this chapter shall automatically be certified under this chapter, and shall be deemed to have complied with all the requirements of this chapter.

(e) Pending formal approval of paramedic certification by the Board, the executive director of the Board may issue a temporary certification to a paramedic whose application establishes to the satisfaction of the executive director that the applicant has met all requirements and standards for certification. Such temporary certification shall be valid for not greater than 90 days.

(67 Del. Laws, c. 152, § 6; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 369, § 1; 73 Del. Laws, c. 368, § 4; 77 Del. Laws, c. 319, § 1.)

### § 9809A. Criminal background checks.

(a) A person seeking certification as a paramedic shall apply to the Board using forms prescribed by the Board and shall submit to the State Office of Emergency Medical Services necessary information in order to obtain the following:

(1) A report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Bureau of Identification Central Repository contains no such information relating to that person.

(2) A report of the individual's entire federal criminal history record from the Federal Bureau of Investigation. The State Bureau of Identification shall be the intermediary for the purposes of this section and the Office shall be the screening point for the receipt of said federal criminal history records.

(b) Upon receipt of necessary information pursuant to subsection (a) of this section, the Office shall acquire and review the state and federal criminal history records for the applicant and may interview the applicant. If the Office determines that the applicant meets the requirements of this section and of its regulations, it shall issue a recommendation to the Board regarding the certification of the applicant in accordance with the provisions of the Medical Practice Act, Chapter 17 of Title 24.

(c) The office must recommend denial of certification to an applicant whose conduct would constitute a crime substantially related to the practice of medicine as set forth in § 1731 of Title 24.

(d) The Board may waive any of the requirements of this section as set forth in § 1720 of Title 24.

(e) Certificates issued pursuant to this section shall be valid for a period as determined by the Board and may be renewed after reconsideration, which may include an interview, if the holder meets the requirements set forth in the regulations of the Board. The Board may decertify any paramedic at any time it determines that the person no longer meets the qualifications prescribed for certification.

(f) Information obtained pursuant to subsection (b) of this section is confidential and shall not be disclosed under any circumstances except:

(1) The State Bureau of Identification may release any subsequent criminal history to the Office of Emergency Medical Services or the Board of Medical Licensure and Discipline when properly requested; and

(2) All information that has been forwarded to the Office pursuant to this section shall be reviewed with the person seeking certification pursuant to this section upon the person's request.

(g) Costs associated with obtaining criminal history information pursuant to this section from the State Bureau of Identification and the Federal Bureau of Investigation shall be borne by the applicant, except that no applicant who is applying for volunteer membership in a Delaware volunteer EMS company shall be charged any fee or cost for obtaining criminal history information from the State Bureau of Identification associated with the application.

(h) (1) A person seeking certification as a paramedic through the New Castle County paramedic service is exempted from the provisions of subsections (a) and (b) of this section; provided, however, that the criminal history background check and review procedures employed by the New Castle County paramedic service are found to be at least as restrictive as those contained in this section. For the purposes of any criminal history background check or review conducted pursuant to regulations promulgated pursuant to this subsection, the State Bureau of Identification shall be the intermediary and the New Castle County Department of Police Paramedic Service shall be the screening point for the receipt of said federal criminal history records. The New Castle County Department of Police may designate any or all of the other divisions or offices therein as a screening point for the receipt of said federal criminal history records.

(2) A person seeking certification as a paramedic who is presently employed as a law-enforcement officer in this State and who was subject to a review of the person's own entire criminal history background at the time the person began employment as a law-enforcement officer in this State is exempted from the provisions of subsections (a) and (b) of this section if, at the time of the prior criminal history background check, no items described in paragraph (b)(1) of this section [repealed] appeared as part of the person's criminal history background.

(i) A person seeking certification pursuant to this section who knowingly provides false, incomplete or inaccurate criminal history information, or who otherwise knowingly violates the provisions of this section, shall be guilty of a class G felony and shall be punished according to Chapter 42 of Title 11.

(73 Del. Laws, c. 176, § 6[7]; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 319, § 1; 78 Del. Laws, c. 179, § 248; 78 Del. Laws, c. 310, § 5; 80 Del. Laws, c. 418, § 1; 82 Del. Laws, c. 153, § 1.)

### § 9810. Reciprocity.

Where a person applies for a certification as a paramedic and has already been licensed or certified as such in another state, the Administrator shall accept a true copy of such license or certificate, or evidence of any examination scores issued by a testing service or professional paramedic association, which shows that the applicant has met requirements in the previous state which are equal to those required in this State; such applicant shall be required to meet such written and practical examinations as determined by the medical directors; and the Board shall certify such person to be a paramedic in the State.

(67 Del. Laws, c. 152, § 6.)

### § 9811. Violations; disciplinary procedure.

(a) The Administrator may at any time upon the Administrator's own motion; and shall, upon verified written complaint of any person, request an investigation be conducted by the Executive Director of the Board of Medical Licensure and Discipline to determine whether or not there are grounds to recommend suspension, revocation or any other penalty upon a person certified under the provisions of this chapter. The Administrator shall recommend to the Board to suspend or revoke any certificate if after a hearing it is found that the holder thereof has:

- (1) Obtained such certificate by means of fraud or deceit;
- (2) Demonstrated gross negligence, or has proven otherwise to be grossly incompetent; or
- (3) Violated or aided or abetted in the violation of any provision of Chapter 17 of Title 24.

(b) If a paramedic's physical or mental capacity to safely perform the paramedic's duties and responsibilities is at issue, the County may order such paramedic to submit to a reasonable physical or mental examination. Failure to comply with this order shall render such paramedic liable to suspension or revocation of the paramedic's certificate.

(c) Nothing in this subsection shall prohibit a member of the public from filing a complaint directly to the Division of Professional Regulation. Upon receipt of a complaint by the Division of Professional Regulation, the Administrator shall be notified in the interest of public safety.

(67 Del. Laws, c. 152, § 6; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 368, §§ 5-8; 77 Del. Laws, c. 319, § 1; 80 Del. Laws, c. 418, § 1.)

### § 9812. Suspension, revocation and other penalties.

(a) For purpose of the public health, safety and welfare, and notwithstanding any other statute or provision of law, the Administrator may recommend to a county or the Board that any of the following penalties, singly or in combination, be imposed:

- (1) That a letter of reprimand be issued;
- (2) That a paramedic be placed on probationary status with limited responsibilities and be required to:
  - a. Regularly report to the county upon the matters which are the basis of the probation;
  - b. Limit all paramedical activities to those areas specifically recommended by the Administrator; and/or
  - c. Take either remedial or continuing education until the required degree of skill has been attained in those areas which are the basis of the probation;
- (3) That a paramedic's certification be suspended; or
- (4) That a paramedic's certification be revoked.

(b) No penalties shall be imposed upon a paramedic's certification without provisions for a hearing. Hearings shall be established in accordance with the provisions of the Medical Practices Act, Chapter 17 of Title 24.

(c), (d) [Repealed.]

(67 Del. Laws, c. 152, § 6; 73 Del. Laws, c. 368, § 9.)

### § 9813. Liability; limitations.

(a) *Physician instructions.* — No emergency physician or designee of such physician who in good faith gives instructions to a paramedic shall be liable for any civil damages which may occur as the result of issuing such instructions; unless the conduct of the physician or the designee of such physician in issuing such instructions rises to the level of willful and wanton, reckless or grossly negligent conduct.

(b) *Paramedics.* — (1) No paramedic who in good faith attempts to render or facilitate emergency medical care authorized by this chapter shall be liable for any civil damages which occur as a result of any act or omission of the paramedic in the rendering of such care; unless such paramedic is guilty of wilful and wanton, reckless or grossly negligent conduct.

(2) No paramedic shall be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical services to any individual, regardless of age, where the person is unable to give consent for any reason, and where there is no other

person reasonably available who is legally authorized to give or refuse to give consent, if the paramedic has acted in good faith, without knowledge of facts negating consent, and without any act or omission constituting wilful and wanton or grossly negligent conduct.

(c) *Educational programs.* — No university, college, medical facility or other entity participating as part of an educational program, nor any faculty member of any such entity, nor any student of such entity who is enrolled in a course of instruction approved by the Administrator, shall be liable for any civil damages as the result of any primary or continuing educational practice conducted under proper supervision, unless such university, college or other entity or faculty member or student is guilty of wilful and wanton, reckless or grossly negligent conduct.

(d) *Health facilities.* — No health facility which assists a physician in giving instructions to a paramedic in accordance with this chapter shall be liable for any civil damages as the result of such instructions, unless such health facility is guilty of wilful and wanton, reckless or grossly negligent conduct.

(67 Del. Laws, c. 152, § 6; 80 Del. Laws, c. 189, § 1.)

### § 9814. Statewide paramedic funding program.

(a) The statewide paramedic funding program is hereby established for the purpose of participating with the counties in the financing of the statewide paramedic program.

(b) The operational costs of the minimum paramedic staff hours established for each county in § 9803(c) of this title shall be shared by the State and county with the State providing 30 percent of the cost and the county providing 70 percent beginning in Fiscal Year 2010.

(c) A county will not be eligible for its 30 percent state share until such time as the rules, regulations, procedures, protocols and approvals required by this chapter have been completed or July 1, 1990, whichever is later. The date of approval by the Department of a county program shall be the starting date in terms of eligibility for state share funding. No county programs will be funded retroactively and the Department shall not unreasonably withhold or delay any approval. The Secretary shall not encumber any of the state funds applied for by a county until such county has appropriated its proportional share of funding.

(d) The General Assembly shall appropriate annually an amount sufficient to reimburse 30 percent of approved costs of the statewide paramedic program; this appropriation shall be made in the annual Grants-In-Aid Act and shall be appropriated to the Office of Emergency Medical Services, Division of Public Health, Department of Health and Social Services, which shall serve as the State's fiscal agent for distributing the funds in accordance with this chapter to counties that operate approved programs. The appropriation in the Grants-In-Aid Act of the state share of the paramedic funding program shall not be subject to the limitation in § 6533(f) of Title 29.

(e) Funds distributed to a county for the purpose of supporting a county component of the statewide paramedic system may be used for direct operating costs or as debt service and financing for bond issuance for that purpose. For those capital projects with a total cost greater than \$200,000, the State shall reimburse on a debt service basis. In no instance shall reimbursement include the cost of indirect services provided by the county.

(f) The Office shall promulgate regulations for the distribution of the funds appropriated pursuant to this chapter to the counties that provide for reimbursement on a quarterly basis.

(g) Funds appropriated pursuant to this section may not be used to fund basic life support services. To the extent that a county or its subcontractor operates integrated advanced and basic life support services, the Office shall devise a methodology to separate costs and shall provide reimbursement accordingly.

(h) The Office shall report on the applications, expenditures, and uses of the statewide paramedic funding program annually as part of the budgetary process of the Department.

(i) The Delaware Paramedic Budget Review package shall be submitted by the counties to the Paramedic Administrator by September 1 of each year. Such request shall include, but not be limited to, a detailed plan of expenditure for each county's approved paramedic program for the subsequent fiscal year. The Paramedic Administrator shall forward copies of the counties' requests, along with the Department's funding recommendation to the Director of the Office of Management and Budget and the Office of the Controller General by November 1.

(j) The Office shall distribute, by contract or otherwise, all state funds used for paramedic training programs.

(67 Del. Laws, c. 153, § 1; 68 Del. Laws, c. 290, § 124; 68 Del. Laws, c. 292, § 19; 69 Del. Laws, c. 64, § 144; 70 Del. Laws, c. 192, § 10; 71 Del. Laws, c. 169, § 21; 71 Del. Laws, c. 300, § 6; 72 Del. Laws, c. 137, § 18; 74 Del. Laws, c. 111, § 31; 74 Del. Laws, c. 309, §§ 28-30; 75 Del. Laws, c. 88, § 21(8); 75 Del. Laws, c. 352, § 29(a); 76 Del. Laws, c. 281, § 29; 79 Del. Laws, c. 293, § 34.)

### § 9815. Implementation of REPLICA.

(a) The Department of Health and Social Services, in collaboration with the Delaware State Fire Commission and the Division of Professional Regulations, shall promulgate regulations for implementation of the REPLICA Compact, Chapter 98A of this title.

(b) The Division of Public Health, the State Fire Commission, and the Division of Professional Regulations shall enter into a memorandum of understanding to identify roles and responsibilities of the partnering agencies under the REPLICA Compact, Chapter 98A of this title.

(81 Del. Laws, c. 178, § 3.)

**Part X**  
**Paramedic and Other Emergency Medical Service Systems**  
**Chapter 98A**

**Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act (“REPLICA”)**

**§ 98A-100. Adoption of REPLICA.**

The Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act (“REPLICA”) is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially in this chapter.

(81 Del. Laws, c. 178, § 1.)

**§ 98A-101. Purpose.**

The purpose of this Compact is to protect the public through verification of competency and ensure accountability for patient care related activities of all states’ licensed emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs, and paramedics. This Compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This Compact recognizes that states have a vested interest in protecting the public’s health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This Compact is designed to achieve the following purposes and objectives:

1. Increase public access to EMS personnel.
2. Enhance the states’ ability to protect the public’s health and safety, especially patient safety.
3. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation.
4. Support licensing of military members who are separating from an active duty tour and the spouses of military members.
5. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action, and significant investigatory information.
6. Promote compliance with the laws governing EMS personnel practice in each member state.
7. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

(81 Del. Laws, c. 178, § 1.)

**§ 98A-102. Definitions.**

As used in this Compact:

A. “Advanced emergency medical technician” or “AEMT” means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. “Adverse action” means any administrative, civil, equitable, or criminal action permitted by a state’s laws that may be imposed against licensed EMS personnel by a state EMS authority or state court, including actions against an individual’s license such as revocation, suspension, probation, consent agreement, monitoring, or other limitation or encumbrance on the individual’s practice; letters of reprimand or admonition; fines; criminal convictions; and state court judgments enforcing adverse actions by the state EMS authority.

C. “Alternative program” means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.

D. “Certification” means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. “Commission” means the national administrative body of which all states that have enacted the Compact are members.

F. “Emergency medical technician” or “EMT” means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. “Home state” means a member state where an individual is licensed to practice emergency medical services.

H. “License” means the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or at a level between EMT and paramedic.

I. “Medical director” means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

J. “Member state” means a state that has enacted this Compact.

K. “Paramedic” means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

L. “Privilege to practice” means an individual’s authority to deliver emergency medical services in remote states as authorized under this Compact.



M. “Remote state” means a member state in which an individual is not licensed.

N. “Restricted” means the outcome of an adverse action that limits a license or the privilege to practice.

O. “Rule” means a written statement by the Commission promulgated pursuant to § 98A-112 of this title that is of general applicability; implements, interprets, or prescribes a policy or provision of this Compact; or is an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a member state. “Rule” includes the amendment, repeal, or suspension of an existing rule.

P. “Scope of practice” means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. “Significant investigatory information” means one of the following:

1. Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice.

2. Investigative information that indicates that the individual represents an immediate threat to public health and safety, regardless of whether the individual has been notified and had an opportunity to respond.

R. “State” means any state, commonwealth, district, or territory of the United States.

S. “State EMS Authority” means the board, office, or other agency with the legislative mandate to license EMS personnel.

(81 Del. Laws, c. 178, § 1.)

### § 98A-103. Home state licensure.

A. Any member state in which an individual holds a current license is deemed a home state for purposes of this Compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this Compact.

C. A home state’s license authorizes an individual to practice in a remote state under the privilege to practice only if the home state meets all of the following requirements:

1. Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels.

2. Has a mechanism in place for receiving and investigating complaints about individuals.

3. Notifies the Commission, in compliance with the terms of the Compact, of any adverse action or significant investigatory information regarding an individual.

4. No later than 5 years after activation of the Compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 CFR § 731.202, and submits documentation of the requirement as promulgated in the rules of the Commission.

5. Complies with the rules of the Commission.

(81 Del. Laws, c. 178, § 1.)

### § 98A-104. Compact privilege to practice.

A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with § 98A-104 of this title.

B. To exercise the privilege to practice under the terms and provisions of this Compact, an individual must meet all of the following:

1. Be at least 18 years of age.

2. Possess a current, unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic.

3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state, as may be defined in the rules of the Commission.

D. Except as provided in this section, an individual practicing in a remote state is subject to the remote state’s authority and laws. A remote state may, in accordance with due process and that state’s laws, restrict, suspend, or revoke an individual’s privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action, the remote state shall promptly notify the home state and the Commission.

E. If an individual’s license in any home state is restricted or suspended, the individual is not eligible to practice in a remote state under the privilege to practice until the individual’s home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked, the individual is not eligible to practice in any remote state until the individual's privilege to practice is restored.

(81 Del. Laws, c. 178, § 1.)

### **§ 98A-105. Conditions of practice in a remote state.**

An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the Commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state.
2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state.
3. The individual enters a remote state to provide patient care or transport within that remote state.
4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state.
5. Other conditions as determined by rules promulgated by the Commission.

(81 Del. Laws, c. 178, § 1.)

### **§ 98A-106. Relationship to emergency management assistance compact.**

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), Chapter 34 of Title 20, all relevant terms and provisions of EMAC shall apply, and to the extent any terms or provisions of this Compact conflict with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

(81 Del. Laws, c. 178, § 1.)

### **§ 98A-107. Veterans, service members separating from active duty military, and their spouses.**

A. Member states shall consider a veteran, active military service member, and member of the National Guard and Reserves separating from an active duty tour, and a spouse of the veteran or member, who holds a current, valid, and unrestricted NREMT certification at or above the level of the state license being sought, as satisfying the minimum training and examination requirements for licensure.

B. Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses.

C. All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of § 98A-108 of this title.

(81 Del. Laws, c. 178, § 1.)

### **§ 98A-108. Adverse actions.**

A. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual is not eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

1. All home state adverse action orders shall include a statement that the individual's Compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

2. An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

C. A member state shall report adverse actions and any occurrences that the individual's Compact privileges are restricted, suspended, or revoked to the Commission in accordance with the rules of the Commission.

D. A remote state may take adverse action on an individual's privilege to practice within that state.

E. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing an adverse action.

F. A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if the conduct had occurred within the home state. In these cases, the home state's law controls in determining the appropriate adverse action.

G. Nothing in this Compact overrides a member state's decision that participation in an alternative program may be used in lieu of adverse action and that participation remains confidential if required by the member state's laws.

Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from the other member state.

(81 Del. Laws, c. 178, § 1.)

### § 98A-109. Additional powers invested in a member state's EMS authority.

A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this Compact to do all of the following:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, or the production of evidence from another member state are enforceable in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state's EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located.
2. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

(81 Del. Laws, c. 178, § 1.)

### § 98A-110. Establishment of the Interstate Commission for EMS Personnel Practice.

A. The Compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

1. The Commission is a body politic and an instrumentality of the Compact states.
2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
3. Nothing in this Compact waives sovereign immunity.

B. *Membership, voting, and meetings.* — 1. Each member state shall have and be limited to 1 delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this Compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the member state in which the vacancy exists. If more than 1 board, office, or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the governor of the state will determine which entity will be responsible for assigning the delegate.

2. Each delegate shall be entitled to 1 vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

4. All meetings are open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in § 98A-112 of this title.

5. The Commission may convene in a closed, nonpublic meeting if the Commission must discuss any of the following:

- a. Noncompliance of a member state with its obligations under the Compact.
- b. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures.
- c. Current, threatened, or reasonably anticipated litigation.
- d. Negotiation of contracts for the purchase or sale of goods, services, or real estate.
- e. An accusation of a crime against any person or formally censuring any person.
- f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.
- g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- h. Disclosure of investigatory records compiled for law-enforcement purposes.
- i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with investigating or determining compliance issues pursuant to the Compact.
- j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this section, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a closed meeting and shall provide a full and accurate summary of actions taken, and the reasons for the actions, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the delegates, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including any of the following:

1. Establishing the fiscal year of the Commission.
2. Providing reasonable standards and procedures as follows.
  - a. For the establishment and meetings of other committees.
  - b. Governing any general or specific delegation of any authority or function of the Commission.
3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of Commission meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commission members vote to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting, revealing the vote of each member with no proxy votes allowed.
4. Establishing the titles, duties, and authority, and reasonable procedures for the election of the officers of the Commission.
5. Providing reasonable standards and procedures for establishing the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws exclusively govern the personnel policies and programs of the Commission.
6. Promulgating a code of ethics to address permissible and prohibited activities of Commission members and employees.
7. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact and after the paying or reserving of all of its debts and obligations.
8. The Commission shall publish its bylaws and file a copy of its bylaws, and any amendments to the bylaws, with the appropriate agency or officer in each of the member states, if any.
9. The Commission shall maintain its financial records in accordance with the bylaws.
10. The Commission shall meet and take actions consistent with this Compact and Commission bylaws.

D. The Commission shall have the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states.
2. To bring and prosecute legal proceedings or actions in the name of the Commission; provided, that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected.
3. To purchase and maintain insurance and bonds.
4. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state.
5. To hire employees, elect or appoint officers, fix compensation, define duties, grant those individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.
6. To accept any appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the donations and grants; provided, that at all times the Commission shall strive to avoid any appearance of impropriety or conflict of interest.
7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use any real, personal, or mixed property; provided, that at all times the Commission shall strive to avoid any appearance of impropriety.
8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property.
9. To establish a budget and make expenditures.
10. To borrow money.
11. To appoint committees, including advisory committees, comprised of members, state regulators, state legislators or their representatives, consumer representatives, and other interested persons as may be designated in this Compact and the bylaws.
12. To provide and receive information from, and to cooperate with, law-enforcement agencies.
13. To adopt and use an official seal.
14. To perform other functions as may be necessary or appropriate to achieve the purposes of this Compact that are consistent with the state regulation of EMS personnel licensure and practice.

E. *Financing of the Commission.* — 1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the Commission's annual report.

F. *Qualified immunity, defense, and indemnification.* — 1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities; provided, that nothing in this paragraph F.1. of this section protects any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or wilful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, unless the actual or alleged act, error, or omission resulted from that person's intentional or wilful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, unless the actual or alleged act, error, or omission resulted from the intentional or wilful or wanton misconduct of that person.

(81 Del. Laws, c. 178, § 1.)

### § 98A-111. Coordinated database.

A. The Commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this Compact is applicable as required by the rules of the Commission, including all of the following:

1. Identifying information.
2. Licensure data.
3. Significant investigatory information.
4. Adverse actions against an individual's license.
5. An indicator that an individual's privilege to practice is restricted, suspended, or revoked.
6. Nonconfidential information related to alternative program participation.
7. Any denial of application for licensure and the reason for the denial.
8. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

(81 Del. Laws, c. 178, § 1.)

### § 98A-112. Rulemaking.

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted under this section. Rules and amendments are binding as of the date specified in the rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, the rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgating and adopting a final rule, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking in the following manner:

1. On the Commission's website.

2. On the website of each member state's EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking shall include all of the following:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.
2. The text of the proposed rule or amendment and the reason for the proposed rule.
3. A request for comments on the proposed rule from any interested person.
4. The manner in which interested persons may submit to the Commission notice of intent to attend the public hearing and any written comments.

F. Prior to adopting a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which the Commission shall make available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by any of the following:

1. At least 25 persons.
2. A governmental subdivision or agency.
3. An association having at least 25 members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than 5 business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This paragraph H.3. of this section shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section requires a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If the Commission does not receive written notice of intent to attend the public hearing by interested parties, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, but the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to do at least 1 of the following:

1. Meet an imminent threat to public health, safety, or welfare.
2. Prevent a loss of Commission or member state funds.
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.
4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical, format, consistency, or grammatical errors. Public notice of any revisions shall be posted on the Commission's website. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

(81 Del. Laws, c. 178, § 1.)

### § 98A-113. Oversight, dispute resolution, and enforcement.

A. *Oversight.* — 1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated under the Compact shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission is entitled to receive service of process in any judicial or administrative proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Commission renders a judgment or order void as to the Commission, this Compact, or promulgated rules.

**B. Default, technical assistance, and termination.** — 1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall do all of the following:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission.

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. The Commission shall give notice of intent to suspend or terminate to the governor of the defaulting state, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The court shall award all costs of the litigation, including reasonable attorney's fees, to the prevailing party.

**C. Dispute resolution.** — 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and nonmember states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

**D. Enforcement.** — 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the court shall award all costs of the litigation, including reasonable attorneys' fees, to the prevailing party.

3. The remedies contained in this section shall not be the exclusive remedies available to the Commission. The Commission may pursue any other remedies available under federal or state law.

(81 Del. Laws, c. 178, § 1.)

### **§ 98A-114. Date of implementation of the Interstate Commission for EMS Personnel Practice and associated rules, withdrawal, and amendment.**

A. The Compact takes effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions that become effective at that time are limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to implement and administer the Compact.

B. Any state that joins the Compact after the Commission's initial adoption of the rules is subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission has the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the statute.

1. A member state's withdrawal shall not take effect until 6 months after enactment of the repealing statute.

2. Withdrawal does not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

D. Nothing contained in this Compact invalidates or prevents any EMS personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this Compact.

E. The member states may amend the Compact. An amendment to this Compact is not effective and binding upon any member state until it is enacted into the laws of all member states.

(81 Del. Laws, c. 178, § 1.)

### **§ 98A-115. Construction and severability.**

This Compact shall be liberally construed so as to effectuate the purposes of the Compact. If a court finds that this Compact is contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states. Nothing in this Compact supersedes state law or rules related to licensure of EMS agencies.

(81 Del. Laws, c. 178, § 1.)