

CHAPTER 418
FORMERLY
SENATE BILL NO. 157

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO PARAMEDIC LICENSURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 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 ~~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 Office shall be the screening point for the receipt of said federal criminal history records.

(b) Upon receipt of ~~fingerprints and other~~ 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 ~~binding~~ recommendation to the Board regarding the certification of the applicant, ~~subject to the following in accordance with the provisions of~~ the Medical Practice Act, Chapter 17 of Title 24.

~~(1) The Office must recommend denial of, and the Board must deny, certification to an applicant convicted of the following:~~

~~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.~~

~~The Office must recommend denial of, and the Board must deny, certification to an applicant convicted of the following crimes, except in extraordinary circumstances:~~

~~a. Any crime for which the 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 (2) of this subsection may be granted only if the applicant establishes by clear and convincing evidence that certification will not jeopardize public health and safety. The Office shall determine and advise the Board:~~

~~a. If extraordinary circumstances exist allowing certification pursuant to paragraph (2) of this subsection; and~~

~~b. If the applicant has established by clear and convincing evidence that such certification will not jeopardize public health and safety.~~

(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 title 24.

(d) The Board may waive any of the requirements of this section as set forth in § 1720 of title 24.

§ 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 ~~this chapter.~~ 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 ~~with the Board of Medical Licensure and Discipline~~ 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.

Approved September 06, 2016