

Readopt with amendment Fire 101.18, effective 6-28-17 (Document #12225-A), to read as follows:

Fire 101.18 “Mental health condition~~disorder~~” means a condition defined in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, Fifth Edition, Text Revision (DSM-5-TR)~~(5th edition)~~(2013~~22~~), available as provided in Appendix B, diagnosed by a psychologist or psychiatrist, based upon mental status examination or psychological testing.

APPENDIX A

| RULE | STATUTE |
|--------------------|--|
| Fire 101.18 | RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7 |

APPENDIX B

| Rule | Title | Obtain at: |
|--------------------|---|---|
| Fire 101.18 | Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, Fifth Edition, Text Revision (DSM-5-TR) (2022) | <p>American Psychiatric Association Publishing 800 Maine Avenue, S.W. Suite 900 Washington, DC 20024 Phone: 1-800-368-5777 Web site: www.appi.org</p> <p>Ordering and pricing options: Hardcover - 220.00-for non-APA members and 176.00 for members; Softcover - 170.00-for non-APA members and 136.00 for members; eBook - \$136.00 for non-APA members and \$108.80 for members.</p> |

Readopt with amendment Fire 602.01, effective 6-28-17 (Document #12225-B), to read as follows:

Fire 602.01 Annual Submittal of Fire Department Roster of Fire Service Personnel.

(a) Fire departments shall ~~supply~~validate with the commission ~~with their~~ current roster of all fire service personnel under their service profile on www.respondnh.org by December 31st of each calendar year.

(b) The roster shall contain the following information for each person comprising the fire department's fire service personnel.

(1) Full legal name;

(2) ~~Mailing address;~~ Primary and secondary job roles;

(3) ~~Telephone number;~~

(4) ~~Date of birth;~~ and

(5) ~~Fire service status, indicating career full time, on call, part time, paid, or volunteer status.~~

Readopt with amendment Fire 701, effective 6-28-17 (Document #12225-B), to read as follows:

Fire 701.01 Full-time Career Fire Service Personnel Entrance Requirement.

(a) Fire departments, state agencies, or private corporations providing fire ~~and~~ or rescue services to the general public and hiring full-time career fire service personnel employees shall have minimum entrance requirements as follows:

(1) The candidate shall have a high school diploma or high school equivalency certificate, general education development;

(2) ~~The candidate shall not have been convicted of a felony under federal law, or the law of this or any other state, province, territory, country, or military, unless he or she has been pardoned or the conviction has been annulled; and~~

(3) ~~The candidate shall be at least 18 years of age; and-~~

(3) The candidate shall be either a United States citizen or shall have the unrestricted right to work in the United States based upon the candidate's valid immigration status, including, if necessary for the candidate's status type, a valid Federal unrestricted employment authorization document.

(b) Before the candidate is employed the hiring authority shall conduct or cause to be conducted a background check to include at a minimum the existence of a criminal history record and motor vehicle violation history record in New Hampshire.

(c) The candidate shall not be employed if the candidate;

(1) Has been discharged from the military service under other than honorable conditions, where the circumstances, in the opinion of a reasonable person, would cast doubt on ~~his or her~~ the candidate's fitness as a fire service personnel;

(2) Has been convicted of a felony under federal law, or the law of this or any other state, province, territory or country, unless ~~he or she~~ the candidate has been pardoned or the conviction annulled;

(3) ~~Is applying for a position as a full-time, career fire service personnel and is not a citizen of the United States;~~

~~(4)~~ Has been convicted of a misdemeanor by a civilian or military court and for which the candidate ~~he or she~~ has not received a pardon or annulment, which offense of the underlying circumstances surrounding the commission thereof was such that it would cause a reasonable person to doubt the candidate ~~applicant~~'s character, honesty, or ability;

~~(5)~~ Has been convicted in a civilian or military court of more than one misdemeanor or violations for which ~~he or she~~ the candidate has not received a pardon or annulment, and which would indicate to a reasonable person a pattern of disregard for the law;

~~(6)~~ Has been convicted in a military or civilian court in the last 10 years immediately before application for hire as a fire service personnel of a misdemeanor for which ~~he or she~~ has not received a pardon or the conviction annulled, and which resulted in serious bodily injury to another person;

~~(7)~~ Has a history of illegal drug use, illegal drug manufacture, transport for sale, or sale of a controlled substance that would cast doubt on ~~his or her~~ the candidate's ability to perform as a firefighter;

~~(8)~~ Has had fire certifications revoked from jurisdictions other than the state of New Hampshire;

~~(9)~~ Suffers from mental ~~disorder~~ health condition for which ~~he or she~~ has not undergone effective ~~rehabilitation~~, which would affect ~~his or her~~ the candidate's ability to perform fire fighting duties;

~~(10)~~ Has been discharged or allowed to resign in lieu of termination with other employers for reasons of moral character or moral turpitude for acts or omissions of conduct that would cause a reasonable person to doubt the candidate's honesty or integrity; or

~~(11)~~ Is found to have a general character and reputation in the community that a reasonable person would doubt that the ~~applicant~~ candidate would conduct ~~him or herself~~ themselves with honesty and integrity.

(d) After written authorization is received from a physician, the candidate shall pass the physical ability test described in Fire 702, unless the candidate has been placed in layoff status due to a reduction in force and the current appointment is by the same hiring authority.

(e) The candidate shall complete a pre-employment medical evaluation as outlined in NFPA 1582 "Standard on Comprehensive Occupational Medical Program for Fire Departments" (2022~~13~~ Edition), available as provided in Appendix B. Based on the medical evaluation, the hiring authority shall determine the candidate's ability to successfully and safely perform essential job tasks, as listed in NFPA 1582 "Standard on Comprehensive Occupational Medical Program for Fire Departments" (2022~~13~~ Edition), available as provided in Appendix B, without posing a significant safety or health risk to themselves, members, or civilians.

(f) The candidate shall be orally interviewed by the hiring authority to determine the candidate's ability to communicate and how the ~~person~~candidate represents ~~him or herself~~themselves to others.

Fire 701.02 Full-time Career Fire Service Personnel Level of Training Required.

~~(a) Full-time career fire service personnel shall, prior to completion of their first year of appointment, complete the minimum program of study as adopted by the commission in accordance with Fire 401 and Fire 402. Performance required of the person shall be in accordance with all applicable sections of fire 400.~~

(a) Full-time career fire service personnel shall, prior to completion of their first year of appointment, shall be certified to any edition of the NFPA professional qualification for firefighter at the Firefighter II level or equivalent.

(b) The commission shall grant an extension to the time limit set forth in Fire 701.02(a) for the completion of the training program upon receipt of a written request from the hiring authority setting forth the reasons therefor for good cause shown, provided that:

(1) Extensions of the time limit for completion of the training program shall not exceed 2 years from the original date of appointment; and

(2) For the purposes of this section, good cause shall include the unavailability of such a program, or a firefighter being unable to complete the training within the prescribed period due to:

- a. Illness;
- b. Injury;
- c. Military service;
- d. Special duty assignments made in the public interest; or
- e. Other reasons outside of the firefighter's control.

~~(b)c~~ The requirements of Fire 701.02(a) shall not apply when a full-time career fire service personnel:

~~(1) Has previously met the requirements of Fire 701.02(a); and~~

~~(2) Is placed in lay off status due to a reduction in force; and~~

~~(3) Is hired by a New Hampshire fire department within one year of the date of the lay off.~~

Repeal Fire 702.02, effective 6-28-17 (Document #12225-B), to read as follows:

Fire 702.02 Aerophobia Test. Full-time career fire service personnel shall, within one year of original appointment, complete an aerophobia test. The firefighter, without stopping for more than 30

~~seconds, shall climb up and down an unsupported aerial ladder at an angle of at least 65 degrees but not more than 75 degrees for a distance of 100 feet as measured from the tip of the ladder to the ground.~~

Readopt with amendment Fire 703, effective 6-28-17 (Doc #12225-B), to read as follows:

PART Fire 703 TRANSFERS/LAPSE IN SERVICE

Fire 703.01 Transfers.

(a) Any full-time career fire service personnel, as defined in Fire 101.16~~7~~, and employed by a New Hampshire fire department, as defined in Fire 101.14~~5~~, may transfer employment to another fire department. Said hiring shall meet Fire 701.01(a), Fire 701.01(b), Fire 701.01(c), Fire 701.01(d), Fire 701.01(f), and Fire 701.02. The individual shall have previously completed the requirements of Fire 702.01 or the physical ability test in effect at the time of original appointment.

(b) Any full-time career fire service personnel that is placed in lay off status due to a reduction in force shall have up to ~~12~~26 months from the date of lay off to transfer to another fire department.

(c) Any full-time career fire service personnel, as defined in Fire 101.16, and employed by a legally constituted municipal or privately incorporated entity that provides services such as, but not limited to, fire suppression, fire prevention, rescue, hazardous materials, emergency medical care, fire investigation, and fire or building inspections in any state, county, municipality, organized fire district, or area may transfer employment to a New Hampshire fire department. Said hiring shall meet Fire 701.01(a), Fire 701.01(b), Fire 701.01(c), Fire 701.01(d), Fire 701.01(e), Fire 701.01(f), and Fire 701.02. The individual shall have previously completed the requirements of Fire 702.01 or the job-related physical ability and performance test in effect at the time of original appointment upon approval by the commission.

Fire 703.02 Lapse in Service.

(a) The employment eligibility for a full-time career fire service personnel shall lapse if the employee terminates employment and is not employed as a fire service personnel within a period of ~~30 days~~26 months after such termination.

(b) If the person who has lapsed is re-employed as a full-time career fire service personnel after ~~his~~ ~~or her~~their employment eligibility has lapsed, the hiring authority shall follow the hiring requirements outlined in Fire 701.01 and 701.02.

APPENDIX A

| RULE | STATUTE |
|-----------------|---|
| Fire 602 | RSA 21-P:28, I(c) |
| Fire 701 | RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 21-P:29, I |
| Fire 703 | RSA 21-P:25, I; RSA 21-P:28, I(a) |

APPENDIX B

| Rule | Title | Obtain at: |
|-----------------------|---|---|
| Fire 701.01(e) | National Fire Protection Association (NFPA) 1582, "Standard on Comprehensive Occupational Medical Program for Fire Departments," 2022 Edition | National Fire Protection Association One Batterymarch Park Quincy, MA 02269 Phone: 1-800-344-3555 Web site: www.nfpa.org Ordering and pricing options: Print - \$78.00; Digital access with NFPA LiNK® – Plans starting at \$11.99/month |

RULEMAKING NOTICE FORM

| | | |
|---------------------|-------------|--|
| Notice Number _____ | Rule Number | Fire 101.18; Fire 602.01; Fire 701; Fire 702.02; Fire 703 |
|---------------------|-------------|--|

| | |
|---|---|
| <p>1. Agency Name & Address:</p> <p>Fire Standards & Training Commission and Department of Safety 33 Hazen Drive Concord, NH 03305</p> | <p>2. RSA Authority: <u> RSA 21-P:27, I(b) </u></p> <p>3. Federal Authority: <u> N/A </u></p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u> </u></p> <p style="padding-left: 20px;">Repeal <u> X </u></p> <p style="padding-left: 20px;">Readoption <u> </u></p> <p style="padding-left: 20px;">Readoption w/amendment <u> X </u></p> |
|---|---|

5. Short Title: **Various Fire Standards and Training Commission Rules**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

Jointly with the Fire Standards and Training Commission, the Department’s proposed rulemaking readopts with amendment Fire 101.18 to change the defined term “mental disorder” to “mental health condition” and to incorporate by reference the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, Fifth Edition, Text Revision (2022). Fire 602.01 is readopted with amendment to revise the content and method of submission of rosters of fire service personnel by fire departments to the Fire Standards and Training Commission via the RespondNH online database. Fire 701.01 is readopted with amendment to revise the minimum entrance requirements and disqualifiers for full-time fire service personnel candidates, (i) by eliminating redundancy, (ii) by providing that the applicant must either be a citizen or a person whose valid immigration status confers the unrestricted right to work in the United States, and (iii) by updating the incorporation by reference of the NFPA 1582 Standard on Comprehensive Occupational Medical Program for Fire Departments from the 2013 to the 2022 edition. Fire 701.02 is readopted with amendment to clarify the prerequisite training qualifications for full-time fire service personnel candidates, the training time limits, extensions of those time limits, and exemptions to the requirements. Fire 702.02 regarding an acrophobia test is being repealed. Fire 703 is readopted with amendment (i) to increase the period within which a full-time career fire service personnel can transfer to another fire department after being laid off due to a reduction in force from 12 months to 26 months, (ii) to increase in the period of employment eligibility after terminating employment from 30 days to 26 months, (iii) and to incorporate a new subsection to further specify qualifications, requirements, and hiring authority regarding full-time career fire service personnel seeking to transfer employment to a New Hampshire fire department. Various editorial and clerical amendments are proposed.

6. (b) Brief description of the groups affected:

Those groups affected by the rules include candidates for full-time career fire fighters; fire departments of the State, political subdivisions, or private fire departments providing fire services to the general public; the New Hampshire Fire Standards and Training Commission; and the Division of Fire Standards & Training and Emergency Medical Services, Department of Safety.

RULEMAKING NOTICE FORM - Page 2

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

| RULE | STATUTE |
|--------------------|---|
| Fire 101.18 | RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 541-A:7 |
| Fire 602 | RSA 21-P:28, I(c) |
| Fire 701 | RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 21-P:29, I |
| Fire 702.02 | RSA 21-P:25, I; RSA 21-P:28, I(a); RSA 21-P:29, I |
| Fire 703 | RSA 21-P:25, I; RSA 21-P:28, I(a) |

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

| | | | |
|------------------|--|-----------------|--|
| Name: | David M. Hiltz, Esq. | Title: | Senior Staff Attorney |
| Mailing Address: | Department of Safety 33 Hazen Drive Concord, NH 03305 | Phone #: | 603-227-4032 |
| | | Fax#: | |
| | | E-mail: | Rules@dos.nh.gov |
| | | TTY/TDD Access: | Relay NH 1-800-735-2964 or dial 711 (in NH) |

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, September 5, 2024 at 10:30 a.m. or end of public hearing, whichever is later.**

Fax
 E-mail
 Other format (specify): First Class Mail or in hand at the public hearing

9. Public hearing scheduled for:

Date and Time: **September 5, 2024 at 9:30 a.m.**
 Physical Location: **Richard M. Flynn Fire Academy Dormitory
90 Smokey Bear Blvd
Concord, NH 03301**
 Electronic Access (if applicable):

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 24-106, dated May 29, 2024

Fiscal Impact Statement for Department of Safety rules governing Various Fire Standards and Training Commission Rules. [Fire 101.18; Fire 602.01; Fire 701; Fire 702.02; Fire 703]

- 1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**
When compared to the existing rules, the proposed rules may reduce costs to political subdivisions and independently owned businesses as described in #3 below.
- 2. Cite the Federal mandate. Identify the impact on state funds:**
No federal mandate, no impact on state funds.

RULEMAKING NOTICE FORM - Page 3

3. Cost and benefits of the proposed rule(s):

Compared to the existing rules, there may be an indeterminate decrease in cost to political subdivisions and certain independently owned businesses that provide fire or rescue services, associated with the proposed Fire 602.01, which allows for submitting fire department rosters online.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

There will be no cost or benefit to State citizens. Political subdivisions that provide fire services within their jurisdictions may benefit from reduced costs as described in #3 above.

C. To independently owned businesses:

Independently owned businesses that provide fire or rescue services may benefit from reduced costs as described in #3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

This proposal does not create a new program or responsibility, and it does not expand or modify an existing program or responsibility or mandate or assign a program or responsibility to any political subdivision in such a way as to increase the costs a political subdivision must pay. Therefore, this proposal does not violate Part I, Article 28-a of the N.H. Constitution.