



North Carolina Department of Public Safety

Private Protective Services Board

Pat McCrory, Governor
Frank L. Perry, Secretary

Gregory K. Baker, Commissioner
Barry S. Echols, Director

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
APRIL 21, 2016
HOLIDAY INN NORTH
2805 HIGHWOODS BLVD
RALEIGH, NC 27604**

BOARD MEMBER PRESENT

Eric Weaver Sr.
David Arndt
Ed Cobbler
Clyde Cook
Richard Epley
William Fletcher, Jr.
William MacRae
Steve Johnson
Brian Lowman
Nada Lawrimore
Bud Cesena
Dustin Greene
Larry Proctor

BOARD MEMBERS ABSENT

Marcus Benson

STAFF PRESENT

Barry Echols – Director
Donald Foster – Deputy Director
Phillip Stephenson - Field Services Supervisor
Jeff Gray - Attorney
Melvin Turner - Investigator
Garcia Graham – PPS Board Secretary

GUEST PRESENT

Jerry D. Pitman
Laura Kosturi
Frank S. Goodrum III
Guest Present Continued.

James Kevin Turnage
Anthony McCollum
Michael Hunter

David Roebuck
Christopher Earls
Bill Fletcher

MAILING ADDRESS:
4901 Glenwood Avenue, Suite 200
Raleigh, NC 27612

E-mail: PPSASL@ncdoj.gov



www.ncdps.gov/pps
An Equal Opportunity employer

OFFICE LOCATION:
4901 Glenwood Avenue, Suite 200
Raleigh, NC 27612
Telephone: (919) 788-5320
Fax: (919) 788-5365

Tony Lashley
Johnny Mims
Robert Dunn
Gary Shaw
Charles Gayton
Sandra Epley
Michael O'Connor
Matthew Grove
Jeff Kiker

Mack Donaldson
Brandy Lee
Henry Arroyo
Dorian Dehnel
Walter Pylypiw
Bill Johnson
Gregory Hatten
Travis Templeton
Suzanne Creech

Pam Mayfield
Thomas Lewin
T. Hunter Glass
Jeff Cathcart
Scott Christopher
Paul Scholl
Mark Greenfield
David Kaiser
Jeff Woods

CALL TO ORDER

Chairman Eric Weaver called the April 21, 2016 Private Protective Services Board meeting to order at 9:30 a.m. Chairman Weaver led the group in the reciting of the Pledge of Allegiance followed by him welcoming all guests.

GOOD OF THE ORDER:

Attorney Jeff Gray explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

Mr. Gary Pastor, President of NCAPI, greeted the Board and all of the guests. He said the association is currently working on many projects including the NCAPI Fall Conference to be held in November 1-3 in the Durham area. He stated that the conference would offer 12 hours of continuing education credits to the attendees. He also stated that the Association has 4 members that attended the Hit The Hill Campaign in Washington DC. The purpose of the meeting is to provide legislators with the industry's opinion on upcoming proposed regulations.

MINUTES:

APPROVAL OF THE FEBRUARY 18, 2016 BOARD MEETING MINUTES

MOTION BY MR. FLETCHER TO ACCEPT THE MINUTES; SECONDED BY MR. GREENE; MOTION CARRIED.

Ms. Lawrimore informed Chairman Weaver that she was present at the March 17, 2016 Special Meeting and Mr. Fletcher was absent. Correction will be made to reflect these changes prior to posting to the Website.

MOTION BY MS. LAWRIKORE TO ACCEPT THE MINUTES FROM THE MARCH 17, 2016 SPECIAL MEETING WITH THE ABOVE CORRECTIONS; SECONDED BY MR. MACRAE; MOTION CARRIED.

SCREENING COMMITTEE REPORT:

Mr. MacRae reported that the Screening Committee met on Wednesday, April 20, 2016, from 1:54 p.m. to 4:57 p.m. to review a total of 28 applications. (See report). The committee members were Mr. MacRae, Mr. Cobbler, Mr. Arndt and Mr. Lowman. Mr. MacRae read the report for the record. (See attachment)

MOTION BY MR. MACRAE TO ACCEPT THE SCREENING REPORT; SECONDED BY MR. CESENA; MOTION CARRIED.

Mr. MacRae presented the following registration report for the period of February 17, 2016 to April 15, 2016. Total registrations 4323; armed totals were 521 of which 156 were new and 279 were renewals, 2 duplicate, and 84 reissue/dual. There were a total of 133 Armed Armored Car, 57 of which were new, 75 renewals and 1 reissue/dual. There were a total of 16 Armed Private Investigators, 3 of which were new, 12 renewals and 1 reissue/dual. There were a total of 3 Armed Private Investigator Associates, 1 of which was new and 2 renewals. Unarmed totals were 3,630 which included 1319 new, 1769 renewals, 531 transfers, 11 duplicates. There were a total of 20 unarmed armored cars, 10 of which were new, 9 renewals, and 1 transfer. Total denials were 752 of which 175 were for cause and 577 for correctable reasons. There were 613 applications approved which were previously denied for a total of 1365 denials reviewed.

MOTION BY MR. GREENE TO ACCEPT THE REGISTRATION REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED.

GRIEVANCE COMMITTEE REPORT:

Mr. Greene reported that the Grievance Committee met on Wednesday, April 20, 2016 from 9:00 a.m. to 12:49 p.m. and heard a total of eight cases. The committee members were Mr. Greene, Mr. Cook, Ms. Lawrimore, Mr. Fletcher, Mr. Proctor and Mr. Epley. Mr. Greene read the report for the record. (See attachment)

It was noted that Mr. Cesena recused himself from case #2015-PPS-028 of the Grievance report.

It was noted that Mr. MacRae recused himself from case #2016-PPS-001 of the Grievance report.

MOTION BY MR. COBBLER TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED.

TRAINING & EDUCATION COMMITTEE:

Mr. MacRae reported that the Training & Education Committee met on April 21, 2016 from 8:00 a.m. until 9:00 a.m. The committee members were Mr. MacRae, Mr. Johnson, Mr. Epley, Mr. Cook, Mr. Arndt, Mr. Cesena and Mr. Cobbler.

The following PPS Trainer courses are scheduled:

May 2-6, 2016	(0800-1700) UAGT Course & Workshop at WTCC
June 6, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
July 11, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
August 1-5, 2016	(0800-1700) UAGT Course & Workshop at WTCC
September 7, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
September 12-16, 2016	(1000-2300) FT Course & Legal Class at Salemburg NCJA
September 26-30, 2016	(0800-1700) UAGT Course & Workshop at WTCC
November 14, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
November 28 – December 2, 2016	(0800-1700) UAGT Course & Workshop at WTCC

Presently we have 365 certified PPS unarmed guard trainers and 116 PPS certified armed guard trainers.

The following PPS Training Courses have been completed:

February 29, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
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March 14-18, 2016	(0800-1700) UAGT Course & Workshop at WTCC
March 28, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
April 4-8, 2016	FT Course & Legal Class at Salemburg NCJA

The following PPS Training Courses for CEU Credits are scheduled:

April 21, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC
August 25, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC
December 15, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC

The following PPS Training Courses for CEU credits have been completed:

February 18, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC
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Mr. MacRae stated that the committee discussed two weapon discharges by employees since the last Board meeting which the first incident involved Supervisor Jamal A. Richardson, an armed guard with Walton Investigations, Inc., and Derek Bowman an unarmed guard with Randolph Security. Both officers were working at the same event when multiple gunshots were fired by the attendees. The armed guard gave his service weapon to the unarmed guard in which he fired two rounds in the air as warning shots. Supervisor Richardson has been demoted to unarmed guard and Officer Bowman was terminated. The committee recommended that the staff to flag both officer's files should they try to apply for an armed guard registration. The second incident involved Derrick Thornton an armed guard with Security Contracting, Inc. He was off duty and sitting in his personal vehicle at the Department of Public Safety building. While he was waiting in his vehicle he attempted to clear his duty weapon and the handgun discharged and a bullet struck his left hand.

MOTION BY MR. JOHNSON TO FLAG THE FILES OF MR. RICHARDSON AND MR. BOWMAN TO HAVE THEM APPEAR BEFORE THE SCREENING COMMITTEE SHOULD THEY APPLY FOR OR RENEW ARMED REGISTRATION. ALSO TO AMEND THE MOTION TO ALLOW THEM TO WORK UNARMED ONLY; SECONDED BY MR. CESENA; MOTION CARRIED.

The following updates were reported by Mr. MacRae, He stated that the unarmed guard training manual is progressing well and there was one correction made in section A-4.

The committee had asked Mr. Turner to check with other community colleges in western region of North Carolina that would be interested in holding the PPS Unarmed Guard Trainer course at their school. Caldwell Community College in Hudson, NC expressed their interest in possibly running the course on their campus. Mr. Turner will bring an update to the T & E Committee once the school's representative has received and reviewed the general requirements for holding UAGT course at their school.

Mr. MacRae stated they discussed the Firearms Training update, the course held in April 2016, and that the shotgun section of the current course being removed. The new Firearms Trainer course has been reduced from a 40 hours course to 32 hours, which consists of the handgun only. Chad Thompson, PPS Firearms Instructor at the NCJA in Salemburg, NC, is currently working on the shoutgun/rifle course lesson plan. Also Mr. Turner the training officer is in process of revising all related forms in reference to the recent change of the lesson plan.

Mr. Turner requested guidance from the committee regarding a firearm instructor who was trying to requalify but failed prior to his certification being expiring.

MOTION BY MR. CESENA TO FOLLOW THE CURRENT RULE REGARDING THE QUALIFICATION FOR FIREARM CERTIFICATION; SECONDED BY MR. JOHNSON; MOTION CARRIED.

Mr. MacRae stated the following nineteen (19) continuing education training courses have been submitted for approval: Introduction to Surveillance (8 hours); Projecting a Positive Image (5 hours); Elicitation (7 hours); Reading Faces in Strange Places (3 hours); The Amazing Power of Face Reading and Body Language (3 hours); Ethics for Legal Professionals: Truth and Consequences (1 hour); NC Firearms Laws: Citizens and Guns (2 hours); Leadership: Modeling Appropriate Behavior (2 hours); Law Enforcement Intelligence Update (4 hours); Security Concepts and Elements of Physical Security (2 hours); Executive Protection – Philosophy, Planning and Operations (2 hours); Convert Surveillance Tactics For the Professional Investigator (6 hours); Investigating Nursing Home Abuse (6 hours); Insurance Investigations From “A to Z”: The Investigator’s Guide to Uncovering Insurance Fraud (6 hours); Basic Crime Scene Photography (6 hours); The Art of Surveillance (6 hours); Dignitary & Executive Protection for Private Security (12 hours).

In addition the committee recommended not to approve two courses from Leading Edge Legal Ed, LLC submitted by Sabine Hilten until she resubmits them with corrections.

MOTION BY MR. CESENA TO ACCEPT THE 17 COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING APPROVAL; SECONDED BY MR. FLETCHER; MOTION CARRIED.

MOTION BY MR. LOWMAN TO ACCEPT THE TRAINING AND EDUCATION COMMITTEE REPORT; SECONDED BY MR. PROCTOR; MOTION CARRIED.

BREAK: 10:24 a.m.
RECONVENED: 10:43 a.m.

GRIEVANCE COMMITTEE:

NONE

SCREENING COMMITTEE:

NONE

LAWS AND RULES COMMITTEE

Ms. Lawrimore reported that the Law and Rules Committee met on Wednesday, April 20, 2016 from 8:00 a.m. to 8:30 a.m. The committee members were Ms. Lawrimore, Mr. Greene, Mr. MacRae, Mr. Arndt, Mr. Fletcher, Mr. Cobbler and Mr. Proctor.

Ms. Lawrimore gave an update on House Bill 299, stating that the bill is finally moving forward and hopefully it will pass this session.

The drone issue has now passed back to the Department of Transportation to be in control of any new legislation and the committee will be monitoring it closely in order to address anything that will effect this Board and the industry.

MOTION BY MR. GREENE TO ACCEPT THE LAW AND RULES COMMITTEE'S REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

FINANCE REPORT:

NONE

ETHICS COMMITTEE

Mr. Lowman reported that one Board member had not turn in their SEI report by the April 15th deadline due to computer problems.

MOTION BY MR. GREENE TO ACCEPT THE ETHICS COMMITTEE'S REPORT; SECONDED BY MR. COOK; MOTION CARRIED.

OLD BUSINESS:

NONE

NEW BUSINESS

Discussion on proposed Board meeting dates for 2017

Mr. Weaver presented the following 2017 Board Meeting Dates:

February 2 & 23, 2017 - Raleigh
April 19 & 20, 2017 - Raleigh
June 20, 21 & 22, 2017 - Wilmington
August 23 & 24, 2017 - Raleigh
October 25 & 26, 2017 - Asheville
December 20 & 21, 2017 – Raleigh

MOTION BY MR. COBBLER TO ACCEPT THE 2017 BOARD MEETING DATES; SECONDED BY MR. FLETCHER; MOTION CARRIED.

Mr. Foster requested that the Board vote on a new phone system for PPS/ASLB because the current phone system cannot be upgraded due to it being too old. The new system will be connected to the DPS's system. The Private Protective Services Board's share of the cost will be \$11,394.00 which includes the hardware and labor.

MOTION BY MR. CESENA TO AUTHORIZE MR. FOSTER TO MOVE FORWARD WITH OBTAINING A NEW PHONE SYSTEM; SECONDED BY MR. JOHNSON; MOTION CARRIED.

FINAL AGENCY DECISION

Scott Christopher Baucom - 15 DOJ07051. Mr. Baucom was present. This case was heard by Administrative Law Judge Augustus B. Elkins II, on October 27, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and demonstration of intemperate habits as evidenced by a conviction for felony embezzlement.

Bud Cesena recused himself from participation and voting in this matter.

MOTION BY MR. COBBLER TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT MR. BAUCOM HIS UNARMED GUARD REGISTRATION; SECONDED BY MR. PROCTOR; MOTION CARRIED.

Ushica Lee Burns - 15 DOJ06492. Ms. Burns was present. This case was heard by Administrative Law Judge August B. Elkins II, on October 27, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and demonstration of intemperate habits as evidenced by a conviction for felony Unlawful Neglect of Child or Helpless Person.

Mr. Epley recused himself from voting in this matter.

MOTION BY MR. JOHNSON TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT MS. BURNS HER UNARMED GUARD REGISTRATION; SECONDED BY MR. CESENA; MOTION CARRIED.

Randy Orlanda Williams Sr. - 15 DOJ06491. Mr. Williams was present. This case was heard by Administrative Law Judge August B. Elkins II, on October 27, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and demonstration of intemperate habits as evidenced by a conviction of misdemeanor Solicit Crime Against Nature.

MOTION BY MR. CESENA TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT MR. WILLIAMS HIS UNARMED GUARD REGISTRATION; SECONDED BY MR. EPLEY; MOTION CARRIED.

Tommy Lee Hudson - 15 DOJ08234. Mr. Hudson was not present. This case was heard by Administrative Law Donald W. Overby, on December 29, 2015. This case involved summary suspension of the petitioner's armed registration based the Petitioner's arrest for an assault with a Deadly Weapon Inflicting Serious Injury which poses a serious threat to the public's health, safety and welfare.

MOTION BY MR. COOK TO FOLLOW THE DECISION OF THE ADMINISTRATIVE LAW JUDGE TO SUSPEND MR. HUDSON'S ARMED REGISTRATION; SECONDED BY MR. COBBLER; MOTION CARRIED.

Gary Dean Brooks - 15 DOJ09336. Mr. Brooks was not present. This case was heard by Administrative Law Judge Donald W. Overby, on December 29, 2015. This case involved the denial of the petitioner's unarmed guard registration based on a conviction of felony Conspiracy to Defraud the United States.

MOTION BY MR. FLETCHER TO UPHOLD THE BOARD'S INITIAL DECISION AND DENY MR. BROOKS UNARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. COOK; MOTION CARRIED.

Rodale Lamont Allen - 15 DOJ00172. Mr. Allen was not present. This case was heard by Administrative Law Judge Donald W. Overby, on December 29, 2015. This case involved the denial of the petitioner's unarmed guard registration renewal application based on his criminal conviction.

Mr. Arndt recused himself from voting in this matter.

MOTION BY MR. GREENE TO ADOPT THE ADMINISTRATIVE LAW JUDGE'S DECISION; SECONDED BY MS. LAWRIMORE; MOTION CARRIED.

Stacy Elmer Guthrie - 15 DOJ09270. Mr. Guthrie was not present. This case was heard by Administrative Law Judge Donald W. Overby, on January 29, 2016. This case involved the denial of the petitioner's Private Investigator License based on lack of good moral character and demonstration of intemperate habits as evidenced by an unfavorable employment history.

MOTION BY MR. GREENE TO UPHOLD THE BOARD'S INITIAL DECISION AND DENY THE APPLICATION FOR MR. GUTHRIE'S PRIVATE INVESTIGATOR LICENSE; SECONDED BY MR. PROCTOR; MOTION CARRIED.

Mr. Arndt, Mr. Lowman, Mr. Cobbler, Mr. Cesena and Mr. MacRae recused themselves from voting in this matter.

DIRECTOR'S REPORT:

Mr. Foster, Deputy Director, gave the Director's Report. He reported that the general assembly drafted a bill in a surprise move to reduce the number of boards. If passed it, will eliminate the Alarm Systems License Board and the entire regulatory system. It will only allow the

Department of Public Safety in its discretion to register the installers (not licensees) and reduce the Private Protective Service to one license with an endorsement. Mr. Foster also stated that he attended a meeting regarding the above and this matter has been tabled until the long session.

Mr. Foster updated the Board on the new computer/scanning project that the contract has been signed and currently waiting on the final release from State IT group.

He informed the Board that they will be filling two open positions, one in the Licensing Unit that will assist Ms. Graham and Ms. Williams (ASLB) and the other position will be in the Registration Unit. Mr. Foster also stated that he apologizes for the difficulty everyone has been having with the DPS e-mail account.

Mr. Foster also informed the Board regarding the existing contract with ASLB/PPSB out - of-state Criminal Record Checks for background checks which allows the Board two one year extension if it so chooses.

MOTION BY MR. CESENA TO EXERCISE THE FIRST OF THE ONE YEAR EXTENSIONS OF CRC CONTRACT; SECONDED BY MR. JOHNSON; MOTION CARRIED.

Mr. Foster read the report for the record. The current PPS budget as of April 30, 2016, has a balance of \$1,293,230.98; the Education Fund balance is \$77,566.96. As of March 31, 2016, the total registrations for PPS is 19,003: 1,736 licensees and 555 certifications.

Mr. Foster reported that there have been a total of 2,788 various correspondences printed from the PPS database, 4,685 registration cards have been printed and a total of 5,858 applications received since the last Board meeting.

MOTION BY MR. COBBLER TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. FLETCHER; MOTION CARRIED.

ATTORNEY'S REPORT:

Attorney Gray informed the Board that staff has resumed issuing consent agreements using the same formula.

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. Mr. David Grimes and Sentry Security Services, Inc. - - On October 22, 2015 the Private Protective Services Board voted to enter into a consent agreement with Mr. Grimes in the amount of \$1762.56 registration violations. Paid in full on February 25, 2016
2. Mr. Mark Eric Zudell and ABM Security, Inc. - - On October 22, 2015 the Private Protective Services Board voted to enter into a consent agreement with Mr. Zudell in the amount of \$12,974.40 for registration violations. Payment has not been received.
3. Mr. Donald Talley and North State Security - - On December 17, 2015 the Private Protective Services Board voted to enter into a consent agreement with Mr. Talley in the amount of \$1,836.00 for registration violations. Paid in full on March 23, 2016
4. Mr. Paul Manley and Show Pros Entertainment Services of Charlotte, Inc.- - On March 17, 2016 the Private Protective Services Board voted to enter into a consent agreement with Mr. Manley in the amount of \$53,611.20, to be paid in three (3) monthly installments, for registration violations. Received first payment on April 14, 2016 in the amount of \$17,870.40.
5. Mr. Daitwan Hardy and Security Contracting, Inc. - - On February 17, 2016 the Private Protective Services Board voted to enter into a consent agreement with Mr. Hardy in the amount of \$5,385.60 for registration violations. Payment has not been received.

II. OFFICE OF ADMINISTRATIVE HEARINGS

The schedule of hearings in the Office Administrative Hearings is attached to the Attorney's Report. (*See*, attachment 1.)

III. RULES

The Board currently has no pending rule adoptions or amendments.

IV. LEGISLATION

1. In a surprise move, a proposed bill was circulated at the Joint Legislative Administrative Procedures Oversight (“Joint APO”) Committee subcommittee on Occupational Licensing Boards at its meeting on Thursday, March 17th. This bill is an off-shoot of the Legislative Program Evaluation Division’s Report on Occupational

Licensing Agencies which Mr. Gray has reported on to the Board and a bill from last session instructing Joint APO to further study the issue (see below)

One section of this bill would - - if passed - - eliminate the Alarm Systems Licensing Board and the entire regulatory system for the industry. In turn, the Department of Public Safety would, in its discretion, be authorized to register installers (but only installers; no business license.)

Numerous other boards and professions or occupations - - from podiatrists to electrologists - - were targeted for elimination (as with the ASLB) or for consolidation with another board.

Another section of the bill applied to all occupational and professional licensing boards and would allow a board to issue only one license; the board could however have "endorsements" for each license. (For instance, for PPSB the Board would issue a "Private Protective Services License" with an endorsement for "Polygraph Examiner.")

Please note, this was only a "draft" and it has not been introduced. It quickly got a lot of questions from the legislators that sit on the Subcommittee and push back from the licensees of these boards, board members and staff, and members of the public. These opponents quickly mobilized and appeared in mass at the full Joint Legislative Administrative Procedures Oversight Committee meeting on April 14th. After hearing from some two dozen speakers, and turning away two to three times that many more, a motion was made to table consideration of the bill - - and the entire issue - - until the "long session" of the General Assembly, which will convene in January 2017.

2. House Bill 299, "Amend Private Protective Services Act/Changes," was heard in the House Committee on Judiciary III on May 6, 2015. It was amended to add a provision allowing the Board to own real property (with a similar provision for the Alarm Systems Licensing Board) and received a favorable report. However, the serial referral to the House Finance Committee was stricken and it was referred to the House Committee on Rules, Calendar and Operations of the House. There was no further action on this bill thereafter.

Since it has a fee in it, this bill is still eligible for consideration and Mr. Gray will continue to work with Ryan Combs and Jarrett Burr, Legislative Liaisons for DPS, in the "short session" when the legislature re-convenes on April 25, 2016.

3. A number of other bills of interest - - either directly effecting the Board, or tangentially effecting it - - have been introduced this Session. They are:

- a. Senate Bill 408, "Firearms on School Grounds/Security Guards," would provide that the prohibition on carrying a weapon on educational property would not apply to an armed security guard registered under Chapter 74C of the General Statutes when acting in the discharge of the guard's duties with the permission of the college, university, or superintendent of the local school administrative unit. This bill would also allow any local law enforcement agency to request a list of the armed security guards employed by the college, university, or local school administrative unit. It was referred to Senate Committee on Rules and Operation of the Senate and saw no further action.
- b. Four bills, Senate Bill 469, "Occupational Licensing Board Reporting Requirements," Senate Bill 361, "Occupational Licensing Reform Study," and House Bill 760, "Regulatory Reform Act of 2015," and House Bill 765, (also named) Regulatory Reform Act of 2015, each address some aspect of the Program Evaluation Division's Report on occupational licensing boards that was released December 2014. For the most part, the Board was not affected by this Report, however, its status as an "Article 3A agency" under Chapter 150B, the Administrative Procedures Act, could be challenged. (Note: Article 3A is the section that allows the Board to make the final decision following an administrative hearing before the Office of Administrative Hearings.)

House Bill 765 is the only one of these four bills that saw final action, and it passed and was presented to the Governor for signature on October 1, 2015. Most provisions in this bill were directed towards environmental issues, but House Bill 765 did contain two interesting provisions. A licensee of an occupational licensing board can no longer be contracted with or employed by the Board to serve as an investigator or inspector if the person is still actively practicing in the profession or occupation, Second, was a provision directing the Joint Legislative Administrative Procedure Oversight Committee ("Joint APO") to review the recommendations in the Program Evaluation Divisions report on occupational licensing boards, consult with interested parties, and make recommendations for proposed legislation in the "short session."

- c. One bill is of particular interest to the Board in that it would help resolve when someone is an "employee" and when the person is an "independent contractor." Aimed at reducing lost tax revenue due to intentional worker

misclassification, House Bill 482, "Employee Fair Classification Act," has a specific provision that would require all occupational licensing boards to: 1) include on every application for licensure, permit, or certification, or application for renewal, a certification that the applicant has read and understands the employee misclassification notice set forth in new G.S. 95-278(a)(7); 2) require all applicants to truthfully certify on the appropriate application that the applicant has read and understands the employee misclassification notice set forth in new G.S. 95-278(a)(7); 3) deny the license, permit or certification application of any applicant who fails to comply with the certification requirement; and 4) revoke such license, permit, or certificate and deny and refuse to grant any renewal or other application therefor until the licensee, permittee, certificate holder or applicant shall have furnished evidence sufficient to establish compliance with new G.S. 95-279(a). The bill also provides a succinct definition of "employee."

House Bill 482 passed the House, passed the Senate with amendments, and on return to the House for concurrence was assigned to the Committee on Rules, Calendar and Operations of the House and no further action. It is eligible for consideration in the "short session."

V. PENDING CASES

For the past 30 months Attorney Gray has been reporting to the Board the status of a civil action filed against Board Investigator Sarah Conner, the Board, the City of Charlotte, the Charlotte-Mecklenburg Police Department and various officers of the Charlotte-Mecklenburg PD in *Kelly v. Conner, et al.*, No. 3:13-cv-636 - - WDNC. (Mr. Kelly was unlicensed as a security guard business and unregistered as a security guard, but performing armed security guard and patrol services. He was arrested by the Charlotte-Mecklenburg Police Department and charged with violating Chapter 74C.) The Court granted the Board's Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b) (6) and Motion for Summary Judgment, as well as similar motions filed by the other Defendants, on May 27, 2015. This action was dismissed with prejudice. The Plaintiff gave notice of appeal on June 24th.

The Plaintiff-Appellant has filed his Brief and Mr. Gray filed the Board's Brief with the Fourth Circuit Court of Appeals on November 13, 2015.

To date, Mr. Gray has not heard back from the court.

MOTION BY MR. GREENE TO ACCEPT ATTORNEY'S REPORT; SECONDED BY MR. CESENA; MOTION CARRIED.

PUBLIC COMMENT:

NONE

MOTION BY MR. CESENA TO ADJOURN; SECONDED BY MR. COBBLER; MOTION CARRIED.

12: 28 P.M. Adjourned

Barry Echols, Director

Garcia Graham, Board Secretary