

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Private Protective Services Board intends to adopt the rule cited as 14B NCAC 16 .1109, amend the rules cited as 14B NCAC 16 .0701, .0902, .0904, .0910, and repeal the rules cited as 14B NCAC 16 .0708 and .0912.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdps.gov/about-dps/boards-commissions/private-protective-services-board>

Proposed Effective Date: *October 1, 2023*

Public Hearing:

Date: *July 11, 2023*

Time: *2:00 p.m.*

Location: *3101 Industrial Dr., Suite 104, Raleigh, NC 27609*

Reason for Proposed Action: *Existing .0701(a)(3) requires only 48 months which is inconsistent with all other new credentials such as new armed guard registration, new firearms trainer, new unarmed armored car registration, new armed armored car registration and new and renewal licenses, all of which require 60 days. The Justice Academy is no longer the sole source of firearms trainer training so .0902 is amended to reflect this. Existing .0904(a)(2) requires a 48 month background check which is inconsistent with the rule for renewing an unarmed guard trainer certificate which require 24 months. Existing .0910 (application for unarmed guard trainer) is amended to match the requirements of .0902 (application for firearms trainer.)*

.0708 is being repealed since this information is uploaded as part of .0907 and .0912 is being repealed because this information is now uploaded as part of the renewal process.

The private investigator industry expressed to the Board an interest in being able to employ interns and participate in apprenticeship programs. (Since apprenticeships had not previously existed the Board did not comply with G.S. 93B-8.6 when enacted.) New .1109 allows for probationary employees, interns and apprentices.

Comments may be submitted to: *Paul Sherwin, 3101 Industrial Dr., Suite 104, Raleigh, NC 27609; phone (919) 788-5320; fax (919) 715-0370; email paul.sherwin@ncdps.gov*

Comment period ends: *August 14, 2023*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 16 - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0700 - SECURITY GUARD REGISTRATION (UNARMED)

14B NCAC 16 .0701 APPLICATION FOR UNARMED SECURITY GUARD REGISTRATION

(a) Each employer or his or her designee shall submit an online application for the registration of each employee to the Board. This online submission shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;

- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online application and submitted by uploading the photograph online with the application submission;
 - (3) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding ~~48~~ 60 months;
 - (4) the applicant's non-refundable registration fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
 - (5) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;
 - (6) one original signed SBI release of information form that shall be uploaded online with the original mailed to the Board's administrative office;
 - (7) a statement signed by a certified trainer that the applicant has completed the training requirements of Rule .0707 of this Section if applicable; and
 - (8) a completed affidavit form and public notice statement form.
- (b) The employer of each applicant for registration shall give the applicant a copy of the application and the completed affidavit form and shall retain a copy of the application, including the affidavit, in the guard's personnel file in the employer's office.
- (c) The applicant's copy of the application and completed affidavit form shall serve as a temporary registration card that shall be carried by the applicant when he or she is working within the scope of his or her employment and shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.
- (d) A copy of the statement required by Subparagraph (a)(7) of this Rule shall be retained by the licensee in the individual applicant's personnel file in the employer's office.

History Note: Authority G.S. 74C-5; 74C-8.1; 74C-11;
 Eff. June 1, 1984;
 Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998; December 1, 1995; June 1, 1994; February 1, 1990; May 1, 1988;
 Transferred and Recodified from 12 NCAC 07D .0701 Eff. July 1, 2015;
 Amended Eff. November 1, 2017;
 Readopted Eff. March 1, 2020;
 Amended Eff. _____; July 1, 2021.

14B NCAC 16 .0708 TRAINER NAME TO BE SUBMITTED TO DIRECTOR

History Note: Authority G.S. 74C-5; 74C-13(m);
 Eff. July 1, 2021;
 Repealed Eff. _____.

SECTION .0900 – TRAINER CERTIFICATE

14B NCAC 16 .0902 APPLICATION FOR FIREARMS TRAINER CERTIFICATE

Each applicant for a firearms trainer certificate shall submit an online application to the Board. The application shall be accompanied by:

- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;
- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online submission and submitted by uploading online with the application submission;
- (3) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;
- (5) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- (6) evidence of the liability insurance required by G.S. 74C-10(e) if the applicant is not an employee of a licensee;
- (7) a certificate of successful completion of the training required by Rule .0901(a)(3) and (4) of this Section, ~~stating the training was completed within 60 days of the submission of the application and uploaded online as part of the online application process; and~~ Section or acceptable certificate of other current certification as set forth in Rule .0901(c) and (d) of this Section; and

- (8) the actual cost charged to the Private Protective Services Board by the North Carolina Justice Academy or other entity to cover the cost of the firearms training course given by the N.C. Justice Academy and collected as part of the online application process by the Private Protective Services Board.

History Note: Authority G.S. 74C-5; 74C-8.1(a); 74C-13;
Eff. June 1, 1984;
Amended Eff. August 1, 1998; December 1, 1995; July 1, 1987; December 1, 1985;
Temporary Amendment Eff. July 17, 2001;
Amended Eff. January 1, 2013; May 1, 2012; August 1, 2002;
Transferred and Recodified from 12 NCAC 07D .0902 Eff. July 1, 2015;
Amended Eff. November 1, 2017;
Readopted Eff. March 1, 2020;
Amended Eff. _____; July 1, 2021.

14B NCAC 16 .0904 RENEWAL OF A FIREARMS TRAINER CERTIFICATE

(a) Each applicant for renewal of a firearms trainer certificate shall complete an online renewal form on the website provided by the Board. This form shall be submitted online not less than 30 days prior to the expiration of the applicant's current certificate and shall be accompanied by:

- (1) uploaded online a certificate of successful completion of a firearms trainer refresher course approved by the Board and the Secretary of Public Safety consisting of a minimum of eight hours of classroom and practical range training in safety and maintenance of the applicable firearm (i.e. handgun, shotgun, or rifle), range operations, control and safety procedures, and methods of firing. This training shall be completed within 180 days of the submission of the renewal application;
- (2) uploaded online a statement of the results of a criminal history records search by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding ~~48~~ 24 months; and
- (3) the applicant's renewal fee, along with the four dollar (\$4.00) convenience fee and credit card transaction fee.

(b) If there is a criminal charge pending against the applicant for renewal that constitutes a deniable offense under G.S. 74C-8(d)(2), consideration of the application shall be deferred until the criminal charge is adjudicated.

(c) Members of the armed forces whose certification is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the certification renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(d) Any firearms trainer who fails to qualify with the minimum score during the refresher course shall not continue to instruct during the period between the failure to qualify and the expiration of his or her permit.

(e) The holder of a firearms trainer certificate may utilize a dedicated light system or gun mounted light for personal requalification.

(f) During a national or State declared state of emergency that restricts or prohibits a certified firearms trainer from requalifying, the Board shall, upon written request to the Director by the licensee, extend the deadline for requalification up to 90 days beyond the effective period of the state of emergency. Any certificate renewed pursuant to this Paragraph shall be issued conditionally and shall automatically expire on the 90th day if requalification requirements have not been met.

History Note: Authority G.S. 74C-5; 74C-8.1(a); 74C-9; 74C-13;
Eff. June 1, 1984;
Amended Eff. January 1, 2013; October 1, 2010; June 1, 2009; December 1, 1995; December 1, 1985;
Transferred and Recodified from 12 NCAC 07D .0904 Eff. July 1, 2015;
Amended Eff. November 1, 2017; February 1, 2016; October 1, 2015;
Readopted Eff. November 1, 2019;
Amended Eff. March 1, 2020;
Emergency Amendment Eff. May 6, 2020;
Temporary Amendment Eff. July 24, 2020;
Temporary Amendment Expired Eff. May 14, 2021;
Amended Eff. July 1, 2022; January 1, 2022;
Amended Eff. _____; October 1, 2022.

14B NCAC 16 .0910 APPLICATION FOR AN UNARMED TRAINER

Each applicant for an unarmed trainer certificate shall submit an online application to the Board. The application shall be accompanied by:

- ~~(1) the certified trainer application fee established in Rule .0903(a)(2) of this Section, along with a four dollar (\$4.00) convenience fee and credit card transaction fee; and~~
- (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that shall be mailed separately to the Board's office;

- (2) one head and shoulders color digital photograph of the applicant in JPG, JPEG, or PNG format of sufficient quality for identification, taken within six months prior to online submission and submitted by uploading online with the application submission;
- (3) upload online a statement of the results of a statewide criminal history records search by the reporting service designated by the Board pursuant to G. S. 74C-8.1(a) for each state where the applicant has resided within the preceding 60 months;
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected online by the Private Protective Services Board;
- (5) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and credit card transaction fee;
- ~~(2)(6)~~ a certificate of successful completion of the ~~required training. This training shall have been completed within 120 days of the submission of the application~~ training required by Rule .0909(a)(3) of this Section or current certificate of other acceptable certification as set forth in Rule .0909(b) of this Section.
- (7) the actual cost charged to the Private Protective Services Board by Wake Technical Community College, or other entity, to cover the cost of the unarmed guard trainer course and collected as part of the online application process by the Private Protective Services Board.

History Note: Authority G.S. 74C-8; 74C-9; 74C-11; 74C-13;
 Eff. October 1, 2004;
 Amended Eff. January 1, 2013;
 Transferred and Recodified from 12 NCAC 07D .0910 Eff. July 1, 2015;
 Readopted Eff. March 1, 2020;
 Amended Eff. _____.

14B NCAC 16 .0912 ROSTERS OF UNARMED TRAINER CLASSES

History Note: Authority G.S. 74C-5; 74C-13;
 Eff. January 1, 2013;
 Transferred and Recodified from 12 NCAC 07D .0912 Eff. July 1, 2015;
 Readopted Eff. March 1, 2020;
 Repealed Eff. _____.

SECTION .1100 - TRAINING AND SUPERVISION FOR PRIVATE INVESTIGATOR ASSOCIATES

14B NCAC 16 .1109 PROBATIONARY EMPLOYEES

- (a) A private investigator licensee may employ a potential trainee as a probationary employee for 60 consecutive calendar days. The Director, upon written request, may extend the probationary period by 30 additional days.
- (b) A private investigator licensee may supervise an intern as a probationary employee concurrent with the educational institution's schedule.
- (c) A private investigator licensee may employ an apprentice participating in a North Carolina Registered Apprenticeship Program as set forth in G.S. 93B-8.6 as a probationary employee for the period prescribed in the federal guidelines as set forth therein.
- (d) To qualify as an "intern" the potential probationary employee must be enrolled as a student in a high school, community college, college or university, be in good standing with the educational institution, and the internship must be for credit towards a degree, diploma, or certificate issued by the educational institution.
- (e) Upon completion of the probationary period and the desire of the licensee to supervise the probationary employee as a private investigator trainee, the potential trainee shall apply pursuant to Section .0200 of this Chapter.
- (f) For hours gained during probationary employment, an internship, or apprenticeship to be considered for licensure the probationary employee shall comply with Rule .1102 of this Section.
- (g) Before a probationary employee engages in any activity defined as private investigation or has access to any confidential client information, the employee shall complete 40 hours of one-on-one supervision by the supervising licensee, and the licensee shall conduct a criminal record check on the employee.
- (h) Before engaging the probationary employee, intern, or apprentice the licensee shall submit to the Director in writing the name, address, last four digits of social security number, confirmation that the results of the criminal history record check contain no prohibitions as set forth in G.S. 74C-8(d)(2), and anticipated start date and ending date of employment of the probationary employee. The Director shall confirm receipt within three business days of receipt.
- (i) Probationary employment which does not comply with this Rule is a violation of Rule .0204(c)(2) of this Chapter.
- (j) Any probationary employee, intern, or apprentice shall be a minimum of 18 years of age.
- (k) The use of the terms "employee" and "employment" in this Rule does not require or mandate compensation for any probationary employment, internship, or apprenticeship.

History Note: Authority G.S. 74C-5(2); 93B-8.6;
 Eff. _____.