NOTICE OF TEXT
[Authority G.S. 150B-21.2(c)]

OAH USE ONLY
VOLUME:
ISSUE:

CHECK APPROPRIATE BOX:

☒ **Notice with a scheduled hearing**
☐ **Notice without a scheduled hearing**
☐ **Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.**
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency:
Private Protective Services Board

2. Link to agency website pursuant to G.S. 150B-19.1(c):
https://www.ncdps.gov/dps-services/permits-licenses/private-protective-services-board

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

☐ **ADOPTION:**

☒ **AMENDMENT:**
14B NCAC 16 .0110, 14B NCAC 16 .0501, 14B NCAC 16 .0807; 14B NCAC 16 .0903; and 14B NCAC 16 .1203

☐ **REPEAL:**

☐ **READOPTION with substantive changes:**

☐ **READOPTION without substantive changes:**

☐ **REPEAL through READOPTION:**

4. Proposed effective date: December 1, 2021

5. Is a public hearing planned? ☒ **Yes** ☐ **No**

If yes: Public Hearing date: Tuesday, August 31, 2021
Public Hearing time: 2:00 pm
Public Hearing location: 3101 Industrial Drive, Suite 104
Raleigh, NC 27609

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s):

The rule amendments add a requirement that the Qualifying Agent must be a resident of NC if the office is in NC, define "registered agent," add new categories for who must report criminal charges, clarify the examination process for polygraph operators, corrects the number of hours required for a PI to obtain a firearms registration, clarify firearms qualification criteria, raise the fees for firearms instructor certification, and transfer two continuing education requirements to a more appropriate section.

8. 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. If the Rules Review Commission receives written and signed objections 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 919-431-3000.

☒ **Rule(s) is automatically subject to legislative review. Cite statutory reference:** N.C. Gen. Stat. § 12-3.1

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Paul Sherwin

Address:

3101 Industrial Drive, Suite 104
Raleigh, NC 27609

Phone (optional): 919-788-5320

Fax (optional): 919-715-0370

E-Mail (optional): paul.sherwin@ncdps.gov

10. Comment Period Ends: October 20, 2021

11. 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 (≥$1,000,000)**
- ☐ **Approved by OSBM**
- ☒ **No fiscal note required**

12. Rule-making Coordinator:

Jeffrey P. Gray

Phone: (919) 828-0731

E-Mail:

jgray@bdixon.com

Additional agency contact, if any:

Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on

Date: June 17, 2021

14. Signature of Agency Head* or Rule-making Coordinator:

Jeffrey P. Gray

Typed Name: Jeffrey P. Gray

Title: Rule-making Coordinator

**If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.*

14B NCAC 16 .0110 is proposed for amendment as follows:

14B NCAC 16 .0110 REPORTING REQUIREMENTS

(a) If any registrant, trainee, certificate holder, employee, subcontractor, or any other person providing private protective services on behalf of a licensee is charged with any criminal offense that would constitute grounds to deny, suspend, or revoke a permit, registration or certificate under this Chapter, the licensee shall report the criminal charge to the Board either in person or by telephone no later than the first business day following knowledge of the charge. The licensee shall provide a copy of the charging document and a written explanation to the Board within five business days.

(b) If any licensee, trainee, registrant, or certificate ~~holder~~ holder, or any employee, subcontractor, or any other person providing services on behalf of a licensee, trainee, registrant, or certificate holder is charged with any criminal offense that would constitute grounds to deny, suspend, or revoke a license, registration, or certificate under this Chapter, the licensee, trainee, registrant, or certificate holder shall self-report the criminal charge to the Board either in person or by telephone no later than the first business day following the charge. The licensee, trainee, registrant, or certificate holder shall provide a copy of the charging document and a written explanation to the Board within five business days.

(c) If a licensee, trainee, registrant, or certificate ~~holder~~ holder, or any employee, subcontractor, or any other person providing services on behalf of a licensee, trainee, registrant, or certificate holder discharges a firearm while engaged in the private protective services business, the licensee shall notify the Board either in person or by telephone no later than the first business day following the incident. The licensee shall also file a written report to the Board within five business days of the incident. In the report, the licensee shall state the name of the individual who discharged the firearm, the type of weapon discharged, the location of the incident, the law enforcement agency investigating the incident, the events leading to the discharge of the firearm, and any bodily injuries occurring from the incident. This Rule shall not apply to a weapon that is discharged during a training course that has been approved by the Board.

History Note: *Authority G.S. 74C-5;*
Eff. February 1, 1995;
Transferred and Recodified from 12 NCAC 07D .0112 Eff. July 1, 2015;
Readopted Eff. November 1, 2019;
Amended Eff. July 1, 2021.

14B NCAC 16 .0501 is proposed for amendment as follows:

14B NCAC 16 .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE

(a) In addition to the requirements of Section .0200 of this Chapter, applicants for a polygraph license shall:

(1) pass an examination and a performance test administered by a panel of polygraph examiners appointed by an entity designated by the Board;

(2) successfully complete a course of instruction at any polygraph school approved by the American Polygraph Association, the American Association of Police Polygraphists, or the Board; and

(3) have either:

(A) one year of verifiable polygraph experience; or

(B) complete at least six months of training as a holder of a polygraph trainee permit, and have administered no fewer than 50 polygraph examinations; or

(4) establish to the Board's satisfaction a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces performing polygraph examinations.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a polygraph license who is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

(1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and

(2) the spouse has two years of verifiable experience within the past five years performing polygraph examinations.

(c) Applicants for a polygraph license may take the examination required in Subparagraph (a)(1) of this Rule no more than twice ~~in any calendar year.~~ within a 12 month period. All portions of the examination must be completed within that 12 month period. Any applicant who fails the polygraph examination four times shall retake the polygraph course of instruction required in Subparagraph (a)(2) of this Rule before taking the polygraph examination again.

(d) Polygraph operators who are duly licensed in another state may perform up to three examinations in this State without being licensed, provided that those examinations are for the purpose of an evaluation of that examiner and the Director has given authorization for this evaluation in advance.

History Note: *Authority G.S. 74C-5; 93B-15.1;*
Eff. June 1, 1984;
Amended Eff. May 1, 2014; October 1, 2013; July 1, 2009; December 1, 1985;
Transferred and Recodified from 12 NCAC 07D .0501 Eff. July 1, 2015;
Readopted Eff. August 1, 2020.

14B NCAC 16 .0807 is proposed for amendment as follows:

14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS

(a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security guard training course set forth in Rule .0707 of this Chapter.

(b) Private investigator licensees applying for an armed security guard firearm registration permit shall first complete a ~~four-hour~~ five-hour training course consisting of the courses set forth in Rule .0707(a)(1) and (2) of this Chapter and all additional training requirements set forth in that Rule.

(c) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed security guards which consists of at least 20 hours of classroom instruction including:

(1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including familiarity with rules and regulations relating to armed security guards (minimum of four hours);

(2) handgun safety, including range firing procedures (minimum of one hour);

(3) handgun operation and maintenance (minimum of three hours);

(4) handgun fundamentals (minimum of eight hours); and

(5) night firing (minimum of four hours).

Subparagraph (c)(2), "operation" under Subparagraph (c)(3), and Subparagraph (c)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(d) Applicants for an armed security guard firearm registration permit shall attain a score of at least 80 percent accuracy on a firearms range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's ~~office. For rifle qualification all shots shall be located on the target. Should a student fail to attain a score of 80 percent accuracy, the student may be given three additional attempts to qualify on the course of fire the student did not pass. Failure to meet the qualification after three attempts shall require the student to repeat the entire basic training course for armed security guards.~~ office, once in three consecutive attempts. Should a student fail to attain a score of 80 percent accuracy, the student may be given a second opportunity to qualify once in three consecutive attempts on the course of fire the student did not pass. Failure to qualify after the second series of attempts shall require the student to repeat the entire basic training course for armed security guards. All ~~additional~~ attempts must take place within 20 days of the completion of the initial 20 hour course. For rifle qualification all shots shall be located on the target.

(e) All armed security guard training required by this Chapter shall be administered by a certified trainer and shall be completed no more than 90 days prior to the date of issuance of the armed security guard firearm registration permit.

(f) All applicants for an armed security guard firearm registration permit shall obtain training under the provisions of this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.

(g) No more than six new or renewal armed security guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training for armed security guards.

(h) Applicants for re-certification of an armed security guard firearm registration permit shall complete a basic recertification training course for armed security guards that consists of at least four hours of classroom instruction and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of an armed security guard firearm registration permit shall also complete the requirements of Paragraph (d) of this Rule.

(i) An armed guard registered with one company may be registered with a second company. The registration shall be considered "dual." The registration with the second company shall expire at the same time that the registration expires with the first company. An updated application shall be required to be submitted by the applicant, along with the digital photograph, updated criminal records checks, and a forty dollar ($40.00) registration fee. If the guard will be carrying a firearm of the same make, model, and caliber, then no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course.

(j) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, six hours of classroom training that shall include the following:

(1) legal limitations on the use of shotgun (minimum of one hour);

(2) shotgun safety, including range firing procedures (minimum of one hour);

(3) shotgun operation and maintenance (minimum of one hour);

(4) shotgun fundamentals (minimum of two hours); and

(5) night firing (minimum of one hour).

Subparagraph (j)(2), "operation" under Subparagraph (j)(3), and Subparagraph (j)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(k) An applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraph (j) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth in Paragraph (j) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(m) To be authorized to carry a rifle in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, 16 hours of classroom training which shall include the following:

(1) legal limitations on the use of rifles (minimum of one hour);

(2) rifle safety, including range firing procedures (minimum of one hour);

(3) rifle operation and maintenance (minimum of two hours);

(4) rifle fundamentals (minimum of ten hours); and

(5) night firing (minimum two hours).

Subparagraph (m)(2), "operation" under Subparagraph (m)(3), and Subparagraph (m)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(n) The applicant shall pass a skills course that tests each basic rifle skill and the test of each skill shall be completed within three attempts.

(o) An applicant may take the additional rifle training at a time after the initial training in this Rule. If the rifle training is completed at a later time, the rifle certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraphs (m) and (n) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a rifle range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(p) Applicants for rifle recertification shall complete an additional one hour of classroom training covering the topics set forth in Paragraph (m) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(q) Upon written request, an applicant for an armed security guard firearm registration permit who possesses a current firearms trainer certificate shall be given a firearms registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d) of this Rule.

(r) An armed security guard is required to qualify annually both for day and night firing with his or her duty handgun, shotgun, and rifle, if applicable. If the security guard fails to qualify on any course of fire, the security guard shall not carry the firearm until such time as he or she meets the qualification requirements. Upon failure to qualify, the firearm instructor shall notify the security guard that he or she is no longer authorized to carry the firearm and the firearm instructor shall notify the employer and the Private Protective Services Board staff on the next business day.

(s) A firearm training certificate of an armed security guard remains valid even if the guard leaves the employment of one company for the employment of another. The range qualifications shall remain valid if the guard will be carrying a firearm of the same make, model, and caliber and no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course. However, nothing herein shall extend the period of time the qualification is valid.

History Note: *Authority G.S. 74C-5; 74C-9; 74C-13;*
Eff. June 1, 1984;
Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987;

Temporary Amendment Eff. January 14, 2002;
Amended Eff. October 1, 2013; October 1, 2010; June 1, 2009; February 1, 2006; August 1, 2002;
Transferred and Recodified from 12 NCAC 07D .0807 Eff. July 1, 2015;
Amended Eff. January 1, 2018; February 1, 2016; October 1, 2015;
Readopted Eff. November 1, 2019.

14B NCAC 16 .0903 is proposed for amendment as follows:

14B NCAC 16 .0903 FEES FOR TRAINER CERTIFICATE

(a) Trainer certificate fees are as follows:

(1) ~~forty dollar ($40.00)~~ fifty-dollar ($50.00) non-refundable initial application fee for firearms trainer applicants;

(2) ~~twenty-five dollar ($25.00)~~ fifty-dollar ($50.00) non-refundable initial application fee for an unarmed trainer applicant; and

(3) twenty-five dollar ($25.00) biennial fee for a renewal or replacement trainer certificate.

(b) Fees shall be paid online by credit card or other form of electronic funds transfer.

History Note: *Authority G.S. 74C-9;*
Eff. June 1, 1984;
Amended Eff. January 1, 2005; January 1, 2004;
Transferred and Recodified from 12 NCAC 07D .0903 Eff. July 1, 2015;
Amended Eff. January 1, 2018;
Readopted Eff. March 1, 2020.

14B NCAC 16 .1203 is proposed for amendment as follows:

14B NCAC 16 .1203 ACCREDITATION STANDARDS

(a) CE courses may obtain the approval of the Board by submitting the following information to the Board for consideration:

(1) the nature and purpose of the course;

(2) the course objectives or goals;

(3) the outline of the course, including the number of training hours for each segment; and

(4) the name of the instructor.

(b) To determine if a course will receive approval from the Board, the Board shall complete the following review:

(1) The matter shall be referred to the Training and Education Committee for the appointment of a sub-committee that shall review the course under consideration. The sub-committee shall consist of at least two industry members of the Training and Education Committee. Other members of the sub-committee may be appointed at the discretion of the Training and Education Committee Chairman.

(2) The sub-committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives or goals.

(3) When the sub-committee completes its review, it shall report to the Training and Education Committee. The Training and Education Committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives and goals. The Training and Education Committee shall then report the findings with a recommendation of acceptance or denial to the Private Protective Services Board.

(c) Upon receipt of the Training and Education Committee report, the Private Protective Services Board shall determine by majority vote if the course will be approved for continuing education credits. In making its determination, the Board shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives or goals.

(d) Each approved course shall remain an approved course for four years from the date of approval by the Board, unless the course content changes or the course instructor changes.

(e) Trainers and instructors shall receive continuing education credit of five hours for every actual teaching hour with an eight hour cap of continuing education credit every two years.

(f) Colleges, universities, trade schools, and other degree granting institutions shall be granted standing approval when the institutions are accredited, certified, or approved by the Department of Public Instruction or by a similar agency in another state and the course is related to law, criminal justice, security profession, finance, ethics, forensics, crime prevention, and investigation. Approval is one credit hour per contact hour not to exceed eight credit hours.

~~(g) Online courses shall be approved by the Board based on compliance with the standards set forth in Paragraph (a) of this Rule. No more than six hours of CEU credit shall be given during a renewal period for online courses.~~

~~(h) No course offering CEU credits may be taken for credit more than one time during a renewal period.~~

History Note: *Authority G.S. 74C-5; 74C-22;*
Eff. February 1, 2010;
Amended Eff. October 1, 2011;
Transferred and Recodified from 12 NCAC 07D .1303 Eff. July 1, 2015;
Emergency Amendment Eff. May 6, 2020;
Readopted Eff. July 1, 2020;
Temporary Amendment Eff. July 24, 2020;
Temporary Amendment Expired Eff. May 14, 2021;
Amended Eff. July 1, 2021.