

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0110

DEADLINE FOR RECEIPT: Friday, September 13, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 2, since you are changing the name of the Rule, put the new name in the form.

On Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

Throughout this Rule, you refer to reporting in person or by telephone. Will this be using the contact information contained in Rule .0102?

In (a), how does the requirement for the licensee to report by the following business day work with G.S. 74C-12(d), which requires licensees to report certain charges to the Board in writing within 30 business days?

In (a), line 6, and (b), line 10, I recommend inserting a comma after "suspend"

Also on lines 6 and 11, insert a comma after "Chapter"

On lines 9, 14, and 17, replace "working" with "business" to be consistent with the language on lines 7, 12, and 17.

In (c), line 15, insert a comma after "registrant"

In (c), lines 16, 17, and 18, you are referring only to a licensee, rather than the categories used on line 15. Is this intentional? Do you only want a licensee to report this, and not registrants pursuant to G.S. 74C-13?

On line 20, is this bodily injuries to the licensee or to anyone?

On lines 20-21, delete "be construed to" so it reads "This Rule shall not apply to a weapon..."

Amanda J. Reeder
Commission Counsel

Date submitted to agency: August 30, 2019

In the History Note, line 26, state "Readopted Eff. October 1, 2019."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0110 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0110 REPORTING REQUIREMENTS ~~FOR THE DISCHARGE OF FIREARMS~~**
4

5 (a) If any licensee or certificate holder is charged with any criminal offense that would constitute grounds to deny,
6 suspend or revoke a license or certificate under this Chapter the licensee or certificate holder shall self-report the
7 criminal charge to the Board either in person or by telephone no later than the first business day following the charge.
8 The licensee or certificate holder shall provide a copy of the charging document and a written explanation to the Board
9 within five working days.

10 (b) If any registrant is charged with any criminal offense that would constitute grounds to deny, suspend or revoke a
11 license or certificate under this Chapter the licensee or certificate holder shall self-report the criminal charge to the
12 Board either in person or by telephone no later than the first business day following knowledge of the charge. The
13 licensee or certificate holder shall provide a copy of the charging document and a written explanation to the Board
14 within five working days.

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

22
23 *History Note: Authority G.S. 74C-5;*

24 *Eff. February 1, 1995;*

25 *Transferred and Recodified from 12 NCAC 07D .0112 Eff. July 1, ~~2015~~; 2015;*

26 *Amended Eff. October 1, 2019.*

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0804

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for ambiguity and lack of statutory authority. This Rule is being readopted pursuant to G.S. 150B-21.3A, and appears to be governing applications to register as an armed security guard pursuant to G.S. 74C-13.

In the History Note, the Board cites only to G.S. 74C-5, which is the general rulemaking authority of the Board.

In Paragraph (a), the Rule states that there shall be "such further investigation of the applicant as deemed necessary." The Rule does not say who will deem the investigation necessary, nor how the necessity will be determined. Staff believes that the agency is relying upon G.S. 74C-5(5) to approve the individual applicants, so staff is not recommending objection to this Paragraph based upon lack of statutory authority at this time. However, there is no guidance in this Rule as to how or when this investigation will occur. Therefore, staff believes this Paragraph is ambiguous as written.

In Paragraph (b), the Rule states that any denial of the registration by the Director will be subject to review of the Board. However, G.S. 74C-13(f) states that the Board will determine whether to issue or deny an applicant for a firearm registration permit. Staff notes that there is an exception in G.S. 74C-13(f) that allows the Director to issue a temporary permit while pending the Board's decision (based upon rules promulgated by the Board and Department of Public Safety); however, that is not the situation that appears to be addressed by this Rule. The agency does not cite to any authority for the Director to issue a denial such that it is reviewable by the Board, nor any authority of the

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Commission Counsel

Board to delegate this decision. Further, staff believes the law is clear that the Board must make the decision. Therefore, staff believes the agency lacks statutory authority for this Paragraph.

§ 74C-13. Armed licensee or registered employee required to have firearm registration permit; firearms training.

(a) It shall be unlawful for any person performing private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications of this section and having been issued a firearm registration permit by the Board. A licensee shall register any individual carrying a firearm within 30 days of employment. Before engaging in any private protective services activity, the individual shall receive any required training prescribed by the Board.

(a1) The following definitions apply in this section:

(1) Armed private investigator. - A licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

(1a) Armed security guard. - An individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; or armed courier service who at any time wears, carries, or possesses a firearm in the performance of duty.

(2) Contract security company. - Any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) Proprietary security organization. - Any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of the employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or an armed private investigator and knowingly authorize or permit the armed security guard or armed private investigator to carry a firearm during the course of performing his or her duties as an armed security guard or an armed private investigator if the Board has not issued him or her a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or an armed private investigator to carry a firearm during the course of performing his or her duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) A firearm registration permit grants authority to the armed security guard, or armed private investigator, while in the performance of his or her duties or traveling directly to and from work, to carry any firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his or her duties.

(c) The applicant for a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each firearm registration permit issued under this section to an armed security guard shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. A firearm registration permit issued to an armed security guard expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. The Board may require all permit holders to complete continuing education courses approved by the Board before renewal of their permits.

(d1) Each firearm registration permit issued under this section to an armed private investigator shall be in the form of a pocket card designed by the Board and shall identify the name of the armed private investigator. While carrying a firearm and engaged in private protective services, the armed private investigator shall carry the firearms registration permit issued by the Board, together with valid identification, and shall disclose to any law enforcement officer that the person holds a valid permit and is carrying a firearm, whether concealed or in plain view, when approached or addressed by the law enforcement officer, and shall display both the permit and the proper identification upon the request of a law enforcement officer. A private investigator firearm registration permit expires one year from the date of issuance and shall be renewed annually. The Board may require all permit holders to complete continuing education courses approved by the Board before renewal of their permits.

(e) If an armed security guard terminates his or her employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Secretary of Public Safety shall provide by rule the procedure by which an armed private investigator, a contract security company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Secretary of Public Safety shall establish a firearms training program for licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Secretary of Public Safety. The Board and the Secretary of Public Safety may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of

this subsection and if the instructors of the training program are certified trainers approved by the Board and the Secretary of Public Safety:

(1) The basic training course approved by the Board and the Secretary of Public Safety shall consist of a minimum of four hours of classroom training which shall include all of the following:

- a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard.
- b. Familiarity with this section.
- c. Range firing and procedure and hand gun safety and maintenance.
- d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Secretary of Public Safety on any approved target course approved by the Board and the Secretary of Public Safety.

(3) A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his or her firearm registration permit.

(4) The Board and the Secretary of Public Safety shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

- (1) Has satisfactorily completed an approved training course.
 - (2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.
 - (3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Secretary of Public Safety.
- (j) The Board and the Secretary of Public Safety are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued a firearm registration permit by the Board.
- (k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Secretary of Public Safety shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Secretary of Public Safety. The Board or the Secretary of Public Safety shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

Amanda J. Reeder
Commission Counsel

- (1) The Board and the Secretary of Public Safety shall also establish renewal requirements for certified trainers. The Board may require all certified trainers to complete continuing education courses approved by the Board before renewal of their certifications.
- (2) No certified firearms trainer shall certify a licensee or registrant unless the licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.
- (m) The Board and the Secretary of Public Safety shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Secretary of Public Safety. The Board and the Secretary of Public Safety shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.
- (n) A private investigator shall be permitted to carry a concealed weapon during the performance of his or her duties as a private investigator upon: (i) obtaining a concealed weapon permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Secretary of Public Safety; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private investigator who does not carry a weapon during the course of his or her duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes. (1979, c. 818, s. 2; 1983, c. 67, s. 3; 1989, c. 759, s. 11; 2001-487, s. 64(h); 2007-511, s. 8; 2009-328, s. 10; 2014-100, s. 17.5(b).)

§ 74C-5. Powers of the Board.

In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power to do all of the following:

- (1) Adopt rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this Chapter.
- (2) Determine minimum qualifications, establish and require written or oral examinations, and establish minimum education, experience, and training standards for applicants and licensees under this Chapter.
- (3) Conduct investigations regarding alleged violations and to make evaluations as may be necessary to determine if licensees and trainees under this Chapter are complying with the provisions of this Chapter.
- (4) Adopt and amend bylaws, consistent with law, for its internal management and control.
- (5) Approve individual applicants to be licensed or registered according to this Chapter.

- (6) Deny, suspend, or revoke any license or trainee permit issued or to be issued under this Chapter to any applicant, licensee, or permit holder who fails to satisfy the requirements of this Chapter or the rules established by the Board. The denial, suspension, or revocation shall be in accordance with Chapter 150B of the General Statutes of North Carolina.
- (7) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. Chapter 5A, Article 2, for acts occurring in matters pending before the Private Protective Services Board which would constitute civil contempt if the acts occurred in an action pending in court.
- (8) Repealed by Session Laws 1989, c. 759, s. 5.
- (9) Adopt rules governing detection of deception schools, and charge fees for reimbursement of costs incurred pursuant to approval of the schools.
- (10) Contract for services as necessary to carry out the functions of the Board.
- (11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.
- (12) Approve a design for a badge or shield that indicates a person is licensed or registered to engage in private protective services. The badge or shield shall be approved by the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police. (1973, c. 528, s. 1; c. 1331, s. 3; 1979, c. 818, s. 2; 1981 (Reg. Sess., 1982), c. 1359, s. 3; 1983, c. 794, s. 2; c. 810; 1989, c. 759, s. 5; 1999-456, s. 19; 2007-511, s. 2.)

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0804

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In (a), line 5, who is the "administrator"? Should this be changed to "Director" to address the change to G.S. 74C-6 made by SL 2001-487(64.)(b)?

On line 5, what is "complete" here? Are the requirements of the application in another rule or law?

In the History Note, line 12, state "Readopted Eff."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0804 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0804 INVESTIGATION/ARMED SECURITY GUARD FIREARM REGISTRATION**
4 **PERMIT**

5 (a) After the administrator receives a complete application for registration, the ~~administrator~~ Director may cause to be
6 made such further investigation of the applicant as deemed necessary.

7 (b) Any denial of an applicant for registration by the ~~administrator~~ Director shall be subject to review by the Board.

8
9 *History Note: Authority G.S. 74C-5;*

10 *Eff. June 1, 1984;*

11 *Transferred and Recodified from 12 NCAC 07D .0804 Eff. July 1, ~~2015~~. 2015;*

12 *Amended Eff. October 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0805

DEADLINE FOR RECEIPT: Friday, September 13, 2019

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In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

On line 3, the name of the Rule is not within the RRC's purview, so I am only asking – why don't you use the full term "Identity"? If you choose to change it, please be sure to update the Submission for Permanent Rule form on Box 2, as well as in the Rule.

In (a), line 5, how will the requirements of 14B NCAC 16 .0705 apply here, given the requirements of G.S. 74C-13(d) and 74C-15?

On line 5, please replace "are hereby made to" with "shall"

In (b), line 8, state "15 business days" or "15 working days" to conform to G.S. 74C-13(e).

In the History Note, why are you citing to G.S. 74C-11? Why not cite to G.S. 74C-15?

Also in the History Note, line 14, state "Readopted Eff."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0805 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0805 ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT IDENT**
4 **CARDS**

5 (a) The provisions of ~~12 NCAC 7D .0705~~ 14B NCAC 16 .0705 are hereby made to apply to armed security ~~officers~~
6 guards.

7 (b) Upon termination of employment of an armed security ~~officer~~ guard, the employer shall return the employee's
8 registration card to the Board within 15 days of the employee's termination.

9
10 *History Note: Authority G.S. 74C-5; 74C-11; 74C-13;*

11 *Eff. June 1, 1984;*

12 *Amended Eff. July 1, 1987;*

13 *Transferred and Recodified from 12 NCAC 07D .0805 Eff. July 1, ~~2015~~; 2015;*

14 *Amended Eff. October 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0806

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In (a)(1), lines 8-9, is "acceptable quality" used to mirror the language in G.S. 74C-11? If so, I note that is for a different type of registration.

In (a)(2), line 12, where are these designated? How does your regulated public know?

In (a)(3), I take it this is the fee in Rule .0802?

In (a)(4), how will your regulated public know this actual cost?

In (c), line 22, what is "successfully" completed?

In (e), I take it that this is to implement G.S. 74C-13(j)?

§ 74C-13. Armed licensee or registered employee required to have firearm registration permit; firearms training.

(j) The Board and the Secretary of Public Safety are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued a firearm registration permit by the Board.

If so, was the Secretary of DPS involved in this rulemaking?

In the History Note, line 30, why are you citing to G.S. 74C-11?

Also in the History Note, add a new line on line 36 and state "Readopted Eff. October 1, 2019."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0806 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0806 RENEWAL OF ARMED SECURITY GUARD FIREARM REGISTRATION**
4 **PERMIT**

5 (a) Each applicant for renewal of an armed security guard firearm registration permit identification card or his or her
6 employer shall complete a form provided by the Board. This form shall be submitted not more than 90 days nor fewer
7 than 30 days prior to expiration of the applicant's current armed registration and shall be accompanied by:

- 8 (1) two head and shoulders color digital photographs of the applicant in JPG format of acceptable
9 quality for identification, taken within six months prior to submission and submitted by e-mail to
10 PPASL-Photos@ncdps.gov or by compact disc;
11 (2) statements of any criminal record obtained from the reporting service designated by the Board
12 pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 12
13 months;
14 (3) the applicant's renewal fee; and
15 (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation
16 to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected
17 by the Private Protective Services Board.

18 (b) The employer of each applicant for a registration renewal shall give the applicant a copy of the application that
19 shall serve as a record of application for renewal and shall retain a copy of the application in the individual's personnel
20 file in the employer's office.

21 (c) Applications for renewal shall be accompanied by a statement signed by a certified trainer that the applicant has
22 successfully completed the training requirements of Rule .0807 of this Section.

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

28 (e) A registered armed security guard may utilize a dedicated light system or gun-mounted light for requalification.

29
30 *History Note: Authority G.S. 74C-5; 74C-11; 74C-13;*

31 *Eff. June 1, 1984;*

32 *Amended Eff. May 1, 2012; October 1, 2010; December 1, 1995; February 1, 1990; December 1,*
33 *1985;*

34 *Transferred and Recodified from 12 NCAC 07D .0806 Eff. July 1, 2015;*

35 *Amended Eff. October 1, 2019; January 1, 2018; November 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0807

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In (b), line 7, I believe "four-hour" should be hyphenated.

In (c), lines 9-10, "basic training course for armed security guards" is not capitalized but it is on line 25. Should it be capitalized here, as well?

In (c), which of these Subparagraphs address handgun safety, as required in G.S. 74C-13(h)(1)(c)?

In (i), Page 2, line 6, what authority are you relying upon for this fee? Is it G.S. 74C-9(e)(7)?

In (q), Page 3, line 12, I believe this should be "possessess"

In (s), what authority are you relying upon for this Paragraph, given the language of G.S. 74C-13(e):

§ 74C-13. Armed licensee or registered employee required to have firearm registration permit; firearms training.

(e) If an armed security guard terminates his or her employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

Assuming you have the authority for this, on line 23, state “caliber and no additional...”

In the History Note, add a new line on line 37 and state “Readopted Eff. October 1, 2019.”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0807 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS**

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

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

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

- 11 (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard,
12 including familiarity with rules and regulations relating to armed security guards (minimum of four
13 hours);
14 (2) handgun safety, including range firing procedures (minimum of one hour);
15 (3) handgun operation and maintenance (minimum of three hours);
16 (4) handgun fundamentals (minimum of eight hours); and
17 (5) night firing (minimum of four hours).

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

20 (d) Applicants for an armed security guard firearm registration permit shall attain a score of at least 80 percent
21 accuracy on a firearms range qualification course adopted by the Board and the Secretary of Public Safety, a copy of
22 which is on file in the Director's office. For rifle qualification all shots shall be located on the target. Should a student
23 fail to attain a score of 80 percent accuracy, the student may be given three additional attempts to qualify on the course
24 of fire the student did not pass. Failure to meet the qualification after three attempts shall require the student to repeat
25 the entire Basic Training Course for Armed Security Guards. All additional attempts must take place within 20 days
26 of the completion of the initial 20 hour course.

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

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

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

35 (h) Applicants for re-certification of an armed security guard firearm registration permit shall complete a basic
36 recertification training course for armed security guards that consists of at least four hours of classroom instruction
37 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 possess 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) ~~The~~ 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, 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. 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. October 1, 2019; January 1, 2018; February 1, 2016; October 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0808

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

What is the purpose of the language in (a), lines 4-6? And how does this conform to G.S. 74C-13(n), which expressly authorizes private investigators to carry concealed weapons?

In (b), line 11, insert a comma after "registrant"

In (b)(2), line 17, delete "but not limited to" and state "including the limitation..."

In (c), line 24, you say that it 'may' be issued. When will the Board not issue the endorsement when someone meets the requirements of this Section? Will this be determined in a hearing?

On lines 27-28, what are these "applicable provisions of this Section"? And do you mean Section or Rule?

In the History Note, line 37, state "Readopted Eff."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0808 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0808 CONCEALED WEAPONS**

4 (a) Nothing in G.S. 74C or this Chapter shall be construed as permitting the carrying of concealed weapons by
5 licensees, trainees, registrants or firearms trainers while in performance of duties regulated by the Private Protective
6 Services Act, ~~unless the Act.~~ However, a licensee, trainer, or registrant who has complied with all provisions of G.S.
7 14, Article 54B and applicable rules ~~promulgated~~ adopted by the N.C. Criminal Justice Education and Training
8 Standards Commission pursuant thereto and has been issued a current concealed handgun permit by a ~~Sheriff.~~
9 ~~Additionally, applicants shall comply~~ Sheriff may carry a concealed handgun after complying with the concealed
10 ~~firearm handgun~~ provisions for training and qualifications set forth in Paragraph (b) of this Rule.

11 (b) A licensee, ~~trainer, or registrant~~ trainee, registrant or firearms trainer shall comply with each of the following
12 requirements to carry a ~~Concealed Firearm~~ concealed handgun while engaged in a private protective services business.

13 (1) ~~An individual shall hold~~ Hold a current Armed Security Guard Registration Permit by complying
14 with all requirements for armed registration as prescribed in this Section.

15 (2) ~~An individual shall complete~~ Complete standards set forth by the N.C. Criminal Justice Education
16 and Training Standards Commission to include knowledge of North Carolina firearms laws
17 including, but not limited to, the limitation on concealed ~~weapon~~ handgun possession on specified
18 ~~grounds property~~ and within certain buildings.

19 (3) ~~An individual meeting the requirements of this Section shall be issued a concealed firearm~~
20 ~~endorsement to the current Armed Security Guard Registration Permit for the term of the Armed~~
21 ~~Security Guard Registration Permit without additional permit fees, but any additional training costs~~
22 ~~necessary to comply with this Section shall be borne directly by the applicant.~~

23 (c) Upon application to the Board, a licensee, trainee, registrant, or firearms trainer meeting the requirements of this
24 Section may be issued a concealed handgun endorsement to the current Armed Security Guard Registration Permit
25 for the term of the Armed Security Guard Registration Permit without additional permit fees, but any additional
26 training costs necessary to comply with this Section shall be borne directly by the applicant. The endorsement shall
27 be renewed at the time of the Armed Security Guard Registration Permit renewal pursuant to the applicable provisions
28 of this Section on payment of the armed security guard registration renewal fee and proof of possession of a current
29 Concealed Handgun Permit. There shall be no additional fee for the concealed ~~firearms~~ handgun endorsement renewal.

30
31 *History Note: Authority G.S. 74C-5; 74C-13;*

32 *Eff. June 1, 1984;*

33 *Temporary Amendment Eff. December 1, 1995 for a period of 180 days or until the*
34 *permanent rule becomes effective, whichever is sooner;*

35 *Amended Eff. June 1, 1996;*

36 *Transferred and Recodified from 12 NCAC 07D .0808 Eff. July 1, ~~2015~~-2015;*

37 *Amended Eff. October 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0809

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In the History Note, add a new line on line 15 and state "Readopted Eff. October 1, 2019."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0809 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0809 AUTHORIZED FIREARMS**

4 Armed licensees or registrants are authorized, while in the performance of official duties or traveling directly to and
5 from work, to carry a standard revolver from .32 caliber to .357 caliber, a standard semi-automatic pistol from .354
6 caliber to .45 caliber, any standard 12 gauge shotgun, or any standard semi-automatic or bolt action ~~.223 or .223, .308,~~
7 5.56 X 45 mm NATO caliber ~~caliber~~, or any above handgun caliber rifle as long as the licensee or registrant has been
8 trained pursuant to Rule .0807 of this Section. For purposes of this Section, a "standard" firearm means a firearm that
9 has not been modified or altered from its original manufactured design.

10
11 *History Note: Authority G.S. 74C-5; 74C-13;*

12 *Eff. June 1, 1984;*

13 *Amended Eff. January 1, 2015; June 1, 1993; November 1, 1991; July 1, 1987;*

14 *Transferred and Recodified from 12 NCAC 07D .0809 Eff. July 1, 2015;*

15 *Amended Eff. October 1, 2019; February 1, 2016.*

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0901

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority. Specifically, in Paragraph (e) of this readopted Rule, the Board states that applicants under Paragraph (d) must pay an application fee. Paragraph (d) addresses applications made pursuant to G.S. 93B-15.1. That statute was amended in 2017 to specifically forbid a licensing board from charging an application fee in Subsection (k), which states:

§ 93B-15.1. Licensure for individuals with military training and experience; proficiency examination; licensure by endorsement for military spouses; temporary license.

(k) An occupational licensing board shall not charge a military-trained applicant or a military spouse an initial application fee for a license, certification, registration, or temporary practice permit issued pursuant to this section. Nothing in this subsection shall be construed to prohibit an occupational licensing board from charging its ordinary fee for a renewal application or prohibit a third party from charging actual costs for a service such as a background check

Additionally, in Paragraph (f), the agency requires a military spouse to follow the requirements of 14B NCAC Section .0200. Rule 14B NCAC .0202 requires the payment of an application fee.

Therefore, staff believes that the requirement for these applicants to pay an application fee contained in Paragraphs (e) and (f) is beyond the statutory authority of the Board.

Amanda J. Reeder
Commission Counsel

§ 93B-15.1. Licensure for individuals with military training and experience; proficiency examination; licensure by endorsement for military spouses; temporary license.

(a) Except as provided by subsection (a2) of this section, and notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

(1) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the occupational licensing board from which the applicant is seeking licensure, certification, or registration in this State: completed a military program of training, completed testing or equivalent training and experience, and performed in the occupational specialty.

(2) Has engaged in the active practice of the occupation for which the person is seeking a license, certification, or permit from the occupational licensing board in this State for at least two of the five years preceding the date of the application under this section.

(3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed and has no pending complaints.

(4) Repealed by Session Laws 2017-28, s. 3, effective July 1, 2017, and applicable to applications submitted on or after that date.

(a1) No later than 30 days following receipt of an application, an occupational licensing board shall notify an applicant when the applicant's military training or experience does not satisfy the requirements for licensure, certification, or registration and shall specify the criteria or requirements that the board determined that the applicant failed to meet and the basis for that determination.

(a2) An occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if the military-trained applicant, upon application to the occupational licensing board:

(1) Presents official, notarized documentation, such as a U.S. Department of Defense Form 214 (DD-214), or similar substantiation, attesting to the applicant's military occupational specialty certification and experience in an occupational field within the board's purview; and

(2) Passes a proficiency examination offered by the board to military-trained applicants in lieu of satisfying the conditions set forth in subsection (a) of this section; however, if an applicant fails the proficiency examination, then the applicant may be required by the board to satisfy those conditions.

In any case where a proficiency examination is not offered routinely by an occupational licensing board, the board shall design a fair proficiency examination for military-trained applicants to obtain licensure, certification, or registration under this section. If a proficiency examination is

offered routinely by an occupational licensing board, that examination shall satisfy the requirements of this section.

(b) Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in this State if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:

(1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration of the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.

(2) Can demonstrate competency in the occupation through methods as determined by the Board, such as having completed continuing education units or having had recent experience for at least two of the five years preceding the date of the application under this section.

(3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.

(4) Is in good standing; has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit; and has no pending complaints.

(5) Repealed by Session Laws 2017-28, s. 3, effective July 1, 2017, and applicable to applications submitted on or after that date.

(c) All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (a) or (b) of this section.

(c1) Each occupational licensing board shall publish a document that lists the specific criteria or requirements for licensure, registration, or certification by the board, with a description of the criteria or requirements that are satisfied by military training or experience as provided in this section, and any necessary documentation needed for obtaining the credit or satisfying the requirement. The information required by this subsection shall be published on the occupational licensing board's Web site and the Web site of the Department of Military and Veterans Affairs.

(d) A nonresident licensed, certified, or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by an occupational licensing board in this State.

(e) Nothing in this section shall be construed to apply to the practice of law as regulated under Chapter 84 of the General Statutes.

- (f) An occupational licensing board shall issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (a) or (b) of this section if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of an occupation licensing board in this State. The temporary permit shall remain valid for the later of one year or the required renewal date for the occupation the temporary practice permit was issued for or until a license, certification, or registration is granted by the occupational licensing board.
- (g) An occupational licensing board may adopt rules necessary to implement this section.
- (h) Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification, or registration requirements established by an occupational licensing board in this State.
- (i) For the purposes of this section, the State Board of Education shall be considered an occupational licensing board when issuing teacher licenses under Article 17E of Subchapter V of Chapter 115C of the General Statutes.
- (j) For the purposes of this section, the North Carolina Medical Board shall not be considered an occupational licensing board.
- (k) An occupational licensing board shall not charge a military-trained applicant or a military spouse an initial application fee for a license, certification, registration, or temporary practice permit issued pursuant to this section. Nothing in this subsection shall be construed to prohibit an occupational licensing board from charging its ordinary fee for a renewal application or prohibit a third party from charging actual costs for a service such as a background check. (2012-196, s. 1; 2014-67, s. 1; 2015-143, s. 1; 2015-241, s. 24.1(r); 2015-268, s. 7.3(a); 2017-28, s. 3; 2017-189, s. 6(a).)

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0901

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In (a)(8), line 25, what is "successfully" here?

In (d), line 33, please note that G.S. 93B-15.1 was amended since this Rule was last reviewed. There is now 93B-15.1(a2) that establishes an alternate path for licensure for a military-trained applicant.

In (f), Page 2, line 1, should this read "requirements"?

In the History Note, add a new line on line 11 and state "Readopted Eff. October 1, 2019."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0901 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0901 REQUIREMENTS FOR A FIREARMS TRAINER CERTIFICATE**

4 (a) Firearms trainer applicants shall:

- 5 (1) meet the minimum standards established by Rule .0703 of this Chapter;
- 6 (2) have a minimum of one year of ~~supervisory~~ experience in security with a contract security company
- 7 or proprietary security organization, or one year of experience with any federal, state, county or
- 8 municipal law enforcement agency;
- 9 (3) attain a 90 percent score on a firearm's prequalification course approved by the Board and the
- 10 Secretary of Public Safety, with a copy of the firearm's course certificate to be kept on file in the
- 11 administrator's office;
- 12 (4) to teach handgun qualification, complete a training course approved by the Board and the Secretary
- 13 of Public Safety that shall consist of a minimum of 32 hours of classroom and practical range
- 14 training in safety and maintenance, range operations, night firearm training, control and safety
- 15 procedures, and methods of handgun firing;
- 16 (5) to teach shotgun ~~or rifle~~ qualification, complete a training course approved by the Board and the
- 17 Secretary of Public Safety that shall consist of a minimum of ~~24~~ 12 hours of classroom and practical
- 18 range training in shotgun ~~and rifle~~ safety and maintenance, range operations, night firearm training,
- 19 control and safety procedures, and methods of shotgun ~~and rifle~~ firing;
- 20 (6) to teach rifle qualification, complete a training course approved by the Board and the Secretary of
- 21 Public Safety that shall consist of a minimum of 16 hours of classroom and practical range training
- 22 in rifle safety and maintenance, range operations, night firearm training, control and safety
- 23 procedures, and methods of rifle firing;
- 24 ~~(6)(7)~~ pay the certified trainer application fee established in Rule .0903(a)(1) of this Section; and
- 25 ~~(7)(8)~~ successfully complete the requirements of the Unarmed Trainer Certificate set forth in Rule .0909
- 26 of this Section.

27 (b) The applicant's score on the prequalification course set forth in Subparagraph (a)(3) of this Rule is valid for 180

28 days after completion of the course.

29 (c) In lieu of completing the training course set forth in Subparagraph (a)(4) of this Rule, an applicant may submit to

30 the Board a current Criminal Justice Specialized Law Enforcement Firearms Instructor Certificate from the North

31 Carolina Criminal Justice Education and Training Standards Commission.

32 (d) In lieu of Subparagraphs (a)(2) and (4) of this Rule, an applicant may establish that the applicant satisfies the

33 conditions set forth in G.S. 93B-15.1(a) for firearm instruction and two years of verifiable experience within the past

34 five years in the U.S. Armed Forces as a firearms instructor.

35 (e) All applicants subject to Paragraphs (c) and (d) of this Rule shall comply with the provisions of Subparagraph

36 (a)(3), pay the application fee amount as set forth in Rule .0903 of this Section, and complete the eight-hour course

37 given by the Board on rules and regulations.

1 (f) In addition to the requirement of Section .0200 of this Chapter, an applicant for a firearms trainer certificate who
2 is the spouse of an active duty member of the U.S. Armed Forces shall establish that the application satisfies the
3 conditions set forth in G.S. 93B-15.1(b).

4 (g) A Firearms Trainer Certificate expires two years after the date of issuance.
5

6 *History Note: Authority G.S. 74C-5; 74C-9; 74C-13; 93B-15.1;*

7 *Eff. June 1, 1984;*

8 *Amended Eff. July 1, 2014; October 1, 2013; December 1, 2008; January 1, 2008; August 1, 2004;*

9 *November 1, 1991;*

10 *Transferred and Recodified from 12 NCAC 07D .0901 Eff. July 1, 2015;*

11 *Amended Eff. October 1, 2019; February 1, 2016; October 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0904

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In (a)(1), line 7, what is "successful completion" here?

On line 9, please insert a comma after "shotgun"

Also in the History Note, please combine lines 34 and 35, and insert a new line for the readopted date. It will look like this:

*Amended Eff. November 1, 2017; February 1, 2016; October 1, 2015;
Readopted Eff. October 1, 2019.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0904 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0904 RENEWAL OF A FIREARMS TRAINER CERTIFICATE**

4 (a) Each applicant for renewal of a firearms trainer certificate shall complete a renewal form provided by the Board
5 and available on its website at www.ncdps.gov/PPS. This form shall be submitted not less than 30 days prior to the
6 expiration of the applicant's current certificate and shall be accompanied by:

- 7 (1) certification of the successful completion of a firearms trainer refresher course approved by the
8 Board and the Secretary of Public Safety consisting of a minimum of eight hours of classroom and
9 practical range training in safety and maintenance of the applicable firearm (i.e. handgun, shotgun
10 or rifle), range operations, control and safety procedures, ~~and methods of firing, firing, and night~~
11 ~~firing~~. This training shall be completed within 180 days of the submission of the renewal application;
12 (2) a certified statement of the result of a criminal records search from the reporting service designated
13 by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the
14 preceding 48 months;
15 (3) the applicant's renewal fee; and
16 (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation
17 to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected
18 by the Private Protective Services Board.

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

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

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

28
29 *History Note: Authority G.S. 74C-5; 74C-8.1(a); 74C-13;*

30 *Eff. June 1, 1984;*

31 *Amended Eff. January 1, 2013; October 1, 2010; June 1, 2009; December 1, 1995; December 1,*
32 *1985;*

33 *Transferred and Recodified from 12 NCAC 07D .0904 Eff. July 1, 2015;*

34 *Amended Eff. February 1, 2016; October 1, 2015;*

35 *Amended Eff. October 1, 2019; November 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0906

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In (a), line 4, who is "the individual"? Should this read "each applicant's"?

In (a)(1), line 5, what is a "post delivery report"? Is this a term known to your regulated public?

In (a)(3), what is the "Certified Firearms Trainer's Documentation Record"? What are the contents and where can this be obtained?

In (b), line 11, please replace "must" with "shall"

On line 12, please insert an "and" before "the printed name"

On line 13, should "Certified Firearms Trainer" be capitalized to be consistent with line 4?

Also in the History Note, line 21, state "Readopted Eff."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0906 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0906 RECORDS RETENTION**

4 (a) A Certified Firearms Trainer shall retain the following in the individual's armed certification file:

- 5 (1) a copy of the post delivery report listing the name(s) of individual(s) who qualified or attempted to
6 qualify for armed security guard registration, and hour(s) of training, ~~weapon~~ firearms qualification
7 scores and any other information thereon;
8 (2) a copy of the individual's Firearm Training Certificate; and
9 (3) the individual's B-27 target and the Certified Firearms Trainer's Documentation Record.

10 (b) The individual's B-27 qualification attempt target shall be retained for a minimum of 18 calendar months from the
11 date of each qualification attempt. Each B-27 target must contain the full name of the individual that fired the
12 qualification course of fire, the date that qualification attempt took place, the printed name and signature of the private
13 protective service certified firearms trainer who scored the target and the score. The qualification target shall also
14 show letter "N" or "D" to indicate if the qualification attempt was a day time ("D") or night time ("N") qualification
15 attempt. The information required by this Paragraph shall be placed on the B-27 target in ink or permanent marker.

16
17 *History Note: Authority G.S. 74C-5; 74C-13;*

18 *Eff. May 3, 1993;*

19 *Amended Eff. December 1, 2008;*

20 *Transferred and Recodified from 12 NCAC 07D .0906 Eff. July 1, ~~2015~~ 2015;*

21 *Amended Eff. October 1, 2019.*

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0909

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☒ Lack of statutory authority
 - ☐ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule for lack of statutory authority. Specifically, in Subparagraph (a)(5) of this Rule, it states that applicants must submit an application as set forth in Rule 14B NCAC 14B .0910. That Rule requires the submission of an application fee. This Subparagraph is applicable to applicants in Paragraph (c), which are the applicants under G.S. 93B-15.1. That statute was amended in 2017 to specifically forbid a licensing board from charging an application fee in Subsection (k), which states:

§ 93B-15.1. Licensure for individuals with military training and experience; proficiency examination; licensure by endorsement for military spouses; temporary license.

(k) An occupational licensing board shall not charge a military-trained applicant or a military spouse an initial application fee for a license, certification, registration, or temporary practice permit issued pursuant to this section. Nothing in this subsection shall be construed to prohibit an occupational licensing board from charging its ordinary fee for a renewal application or prohibit a third party from charging actual costs for a service such as a background check

Additionally, in Paragraph (d), the agency requires a military spouse to follow the requirements of 14B NCAC Section .0200. Rule 14B NCAC .0202 requires the payment of an application fee.

Therefore, staff believes that the requirement for these applicants to pay an application fee contained in Paragraphs (c) and (d) is beyond the statutory authority of the Board.

Amanda J. Reeder
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 14B NCAC 16 .0909

DEADLINE FOR RECEIPT: Friday, September 13, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In the Submission for Permanent Rule form, Box 3, remove the check from "Amendment" This is a Readoption only.

In the Introductory Statement of the Rule, line 1, this is a readoption, not an amendment. Please change the language to reflect that.

In (a)(3), line 9, what is "successfully" here?

On line 10, replace "which" with "that"

In (a)(3)(A) through (G), why are the hours in parenthesis? Consider removing them and just saying "trainer – two hours"

In (a)(3)(A) through (G), you are listing a requirement for 14 hours and 45 minutes. I take it the remaining 9 hours and 15 minutes will be determined by someone else. Who will that be?

In (a)(4), line 20, what is "knowledgeable"? Will this be entirely up to the individual?

In (c), line 31, please note that G.S. 93B-15.1 was amended since this Rule was last reviewed. There is now 93B-15.1(a2) that establishes an alternate path for licensure for a military-trained applicant.

In (e)(3), line 4, please replace "established pursuant to" with "defined by"

In (f), I note that Rule .0901(g) says "expires two years" Do you want to use the same language in both rules? I am fine if you do not, but wanted to draw your attention to this.

In the History Note, add a new line on line 12 and state "Readopted Eff. October 1, 2019."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 30, 2019

1 14B NCAC 16 .0909 is amended as published in 33:15 NCR 1544 as follows:

2
3 **14B NCAC 16 .0909 UNARMED TRAINER CERTIFICATE**

4 (a) To receive an unarmed trainer certificate, an applicant shall meet the following requirements:

- 5 (1) comply with the requirements of Rule .0703 of this Chapter;
- 6 (2) have a minimum of one year of experience in security with a contract security company or
- 7 proprietary security organization, or one year of experience with any federal, state, county or
- 8 municipal law enforcement agency;
- 9 (3) successfully complete a training course approved by the Board and the Secretary of Public Safety
- 10 which shall consist of a minimum of 24 hours classroom instruction to include the following topic
- 11 areas:
- 12 (A) civil liability for the security trainer -- (two hours);
- 13 (B) interpersonal communications in instruction -- (three hours);
- 14 (C) teaching adults -- (four hours);
- 15 (D) principles of instruction -- (one hour);
- 16 (E) methods and strategies of instruction -- (one hour);
- 17 (F) principles of instruction: audio-visual aids -- (three hours); and
- 18 (G) student performance -- (45 minute presentation);
- 19 (4) receive a favorable recommendation from the employing or contracting ~~licensee~~; licensee or other
- 20 individual knowledgeable of the applicant's experience and teaching skills; and
- 21 (5) submit the application required by Rule .0910 of this Section, which is available on the Board's
- 22 website at www.ncdps.gov/PPS.

23 (b) In lieu of completing the training course set forth in Subparagraph (a)(3) of this Rule, an applicant may submit to

24 the Board:

- 25 (1) a Criminal Justice General Instructor Certificate from the North Carolina Criminal Justice Education
- 26 and Training Standards Commission; or
- 27 (2) any training certification that meets or exceeds the requirements of Subparagraph (a)(3) of this Rule
- 28 and is approved by the Director of PPS.

29 (c) In lieu of the experience requirement of Subparagraph (a)(2) of this Rule and completing the training course set

30 forth in Subparagraph (a)(3) of this Rule, an applicant may establish that the applicant satisfies the conditions set forth

31 in G.S. 93B-15.1(a) for an unarmed trainer and two years of verifiable experience within the past five years in the

32 U.S. Armed forces as an unarmed guard trainer.

33 (d) In addition to the requirements of Section .0200 of this Chapter, an applicant for an unarmed guard trainer

34 certificate that is the spouse of an active duty member of the U.S. Armed Forces shall establish that the applicant

35 satisfies the conditions set forth in G.S. 93B-15.1(b).

36 ~~(e) An Unarmed Trainer Certificate shall expire two years after the date of issuance.~~

37 (e) The holder of an unarmed trainer certificate may teach as:

1 (1) an employee of a licensed security guard and patrol business;

2 (2) as a contractor of a licensed security guard and patrol business; and

3 (3) in a program sponsored by a public high school defined by G.S. 115C-75(a)(2) or a community
4 college established pursuant to G.S. 115D-2(2).

5 (f) An Unarmed Trainer Certificate shall expire two years after the date of issuance.

6
7 *History Note: Authority G.S. 74C-8; 74C-9; 74C-11; 93B-15.1;*

8 *Eff. October 1, 2004;*

9 *Amended Eff. October 1, 2013; January 1, 2013; January 1, 2008;*

10 *Transferred and Recodified from 12 NCAC 07D .0909 Eff. July 1, 2015;*

11 *Amended Eff. October 1, 2019; October 1, 2015.*