

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Friday, April 11, 2014

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Forms, you state the hearing was held on January 23, 2014. However, in the Register publication, you stated the hearing would be held January 3, 2014. This is the date on the agency's website, as well. Please correct the forms to include the correct hearing date.

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: March 28, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0106

DEADLINE FOR RECEIPT: Friday, April 11, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Throughout this Rule, where you state "his" state "his or her" (lines 4, 6, 10, 13.) Note the same change for "him" on line 13.

On line 4, you state "may" have the license revoked. Do you mean "shall"? (I ask, noting the use of shall on line 19 in Paragraph (b).) If not, I assume the "may" is following a hearing as contemplated in G.S. 74C-12?

In (a)(4), I take it you mean the licensee must include their license number in any advertisement?

In (b), line 18, I don't think you need "In addition to the prohibited acts elsewhere in these Rules and in Chapter 74C of the General Statutes," and can just state, "It shall be..."

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: March 28, 2014

12 NCAC 07D .0106 is amended as published in 28:11 NCR 1179 as follows:

1 **12 NCAC 07D .0106 PROHIBITED ACTS**

2
3 (a) In addition to the prohibited acts set forth elsewhere in these ~~Regulations~~ Rules and in Chapter 74C of the General
4 Statutes, any licensee, trainee, registrant, or firearms trainer who does any of the following may have his license, trainee
5 permit, registration, or firearms trainer certificate revoked or suspended:

- 6 (1) Displays or causes or allows to be displayed, or has in his possession any cancelled, revoked, suspended,
7 fictitious, fraudulently altered license, trainee permit, registration identification card, or firearms trainer
8 certificate, or any document simulating, purporting to be, or purporting to have been issued as a license,
9 trainee permit, registration identification card, or firearms trainer certificate;
- 10 (2) Lends his license, trainee permit, registration identification card, or firearms trainer certificate to any
11 person or allows the use thereof by another;
- 12 (3) Displays or represents any license, trainee permit, registration identification card, or firearms trainer
13 certificate not issued to him as being his license, trainee permit, registration identification card, or firearms
14 trainer certificate; or
- 15 (4) Includes in any advertisement a statement which implies official state authorized certification or approval
16 other than this statement: "Licensed by the Private Protective Services Board of the State of North
17 Carolina." Licensees must include their license number.

18 (b) In addition to the prohibited acts set forth elsewhere in these Rules and in Chapter 74C of the General Statutes, it
19 shall be grounds for application denial or license registration suspension or revocation for an applicant, licensee, trainee,
20 registrant or trainer to make any false statement or give any false information to a third party in connection with any criminal
21 history record check provided to the Board.

22
23 *History Note: Authority G.S. 74C-5; 74C-8.1; 74C-12; 74C-16;*
24 *Eff. June 1, 1984;*
25 *Amended Eff. May 1, 2014; July 1, 1987;*
26
27
28

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0501

DEADLINE FOR RECEIPT: Friday, April 11, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Fix the spacing on line 2 between (a) and "In addition..."

End (b)(2), line 16 with a semicolon, not a comma.

On line 21, state "Subparagraph" instead of Paragraph.

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: March 28, 2014

12 NCAC .0501 is amended as published in 28:11 NCR 1180 as follows:

SECTION .0500 - POLYGRAPH

12 NCAC 07D .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE

(a) In addition to the requirements of 12 NCAC 07D .0200, applicants for a polygraph license shall:

- (1) pass an examination and a performance test administered by a panel of polygraph examiners 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 Polygraphist or the Board; and
- (3) have either:
 - (A) one year of polygraph experience; or
 - (B) complete at least six months of training as a holder of a polygraph trainee permit, and have administered no less 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 12 NCAC 07D .0200, an applicant for a polygraph license that 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 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. Any applicant who fails the polygraph examination four times shall retake the polygraph ~~school~~ course of instruction required in Paragraph (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 ~~provided that~~ the Director has given authorization for this evaluation in advance.

History Note: Authority G.S. 74C-5; G.S. 93B-15.1; Eff. June 1, 1984; Amended Eff. May 1, 2014; October 1, 2013; July 1, 2013; July 1, 2009; December 1, 1985.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0502

DEADLINE FOR RECEIPT: Friday, April 11, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 2, the citation should read "12 NCAC 07D .0200" Note the same change for line 13.

In Item (2), I assume "directly supervised" on line 5 refers to "in person"?

Also in Item (2), "three" needs to be spelled out on line 6.

In Item (3), line 9, why not just state "the school provides written notice to the client..."

Also in Item (3), how long must the school keep a copy of the notification?

In Item (4), you are removing a comma without showing it. The Rule currently reads:

- (4) Trainees who wish to apply for a license must submit an application to the Board in accordance with 12 NCAC 7D .0201. Applicants meeting license qualifications within one year of the issuance of a trainee **permit**, shall not be required to pay an additional application fee;

I think you should remove the comma, but you will need to do so by showing the removal. See Rule 26 NCAC 02C .0108(7) for guidance in showing this change.

In Item (6), I take it the checklist contents are set forth in Rule or statute?

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: March 28, 2014

12 NCAC 07D .0502 is amended as published in 28:11 NCR 1180 as follows:

1 **12 NCAC 07D .0502 POLYGRAPH TRAINEE PERMIT REQUIREMENTS**

2 In addition to the requirements of 12 NCAC 7D .0200, the following requirements shall apply to polygraph trainees:

- 3 (1) The applicant shall successfully complete a formal course of instruction at any polygraph school approved
4 by the American Polygraph Association, the American Association of Police Polygraphists or the Board;
- 5 (2) The applicant shall be directly supervised by a polygraph examiner approved by the Board and that
6 examiner shall supervise no more than 3 trainees at any given time;
- 7 (3) An individual currently enrolled in a polygraph school may conduct examinations as a part of the course
8 curriculum provided such examinations are on school premises, under the direct one-on-one supervision of
9 a polygraph licensee, and the school provides, in writing, a notice to the client that such examinations are
10 being conducted by students and not by licensed polygraph examiners. The school shall maintain a copy of
11 such written notification;
- 12 (4) Trainees who wish to apply for a license must submit an application to the Board in accordance with 12
13 NCAC 7D .0201. Applicants meeting license qualifications within one year of the issuance of a trainee
14 permit shall not be required to pay an additional application fee;
- 15 (5) Any request for renewal of a trainee permit or for issuance of a polygraph license shall be accompanied by
16 an evaluation report of the trainee's performance submitted by the trainee's supervisor; and
- 17 (6) In addition to the final evaluation report, supervisors shall submit a ~~minimum~~ of five monthly evaluation
18 reports on a checklist provided by the Board.

19
20 *History Note: Authority G.S. 74C-5;*
21 *Eff. June 1, 1984;*
22 *Amended Eff. May 1, 2014; December 1, 1985.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0503

DEADLINE FOR RECEIPT: Friday, April 11, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

End Items (1) through (11) consistently, with either periods or semicolons. I suggest using periods. That means you need to change the semicolon at the end of Item (1) to a period.

On line 5, change the reference to "he or she"

I believe you should insert a comma after "collected" in Item (2), line 6.

Delete "at a minimum" on line 8, as the Rule sets the minimum standards.

Fix the indentation of (2)(a) through (e). Also, replace the commas at the end (2)(a) through (e) with semicolons.

Define "reasonable" in Item (3) on line 19.

In Item (4), delete "of his" on line 20.

In Item (5), I'd replace "based on" with "based upon"

In Item (6), I take it your regulated public knows what "an electronic question set" is? Same question for Item (7), "charts."

In Item (6), line 25, I believe you can delete "to be"

I believe you intended to delete the "and" at the end of Item (7), line 28. Currently, the sentence reads "charts consisting of the same and questions."

You must clarify the language in Item (9). Since you are requiring that the records be kept for each chart in either printed or reproducible electronic format in Item (2), are you saying in (9) that if it's not kept electronically, then Item (9) applies? What is the purpose of Item (9), exactly?

Also in Item (9), line 35, rather than saying "specified three year period" why not just state "the period required by Item 1 of this Rule"?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: March 28, 2014

Add Page numbers. And On Page 2, line numbers must begin at 1 for each page – see Rule 26 NCAC 02C .0108(1)(f).

In Item (11), insert a comma after examiners in “For adequate auditing of polygraph examiners”

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: March 28, 2014

12 NCAC 07D .0503 is amended as published in 28:11 NCR 1180 as follows:

1 **12 NCAC 07D .0503 POLYGRAPH EXAMINATION REQUIREMENTS**

2 Polygraph licensees and trainees ~~shall comply with the following:~~ shall:

3 (1) Obtain written consent from the individual to be examined which shall be signed in the presence of ~~both the~~
4 ~~examiner and examinee.~~ examiner. The consent form shall include a statement advising the examinee that
5 he may terminate the examination at any time;

6 (2) A printed or reproducible electronic copy of each chart collected as well as documents associated with the
7 examination such as reports, question sets and signed consent forms shall be retained by the examiner for a
8 minimum of three years. The examiner shall record, at a minimum, the following information: Each chart
9 shall be kept by the examiner. The examiner shall label the beginning of the first chart with the following
10 information:

- 11 (a) name of the examinee,
- 12 (b) date of the examination,
- 13 (c) type of examination,
- 14 (d) time the examination started,
- 15 (e) location of the examination, and
- 16 (f) name and license number of the examiner.

17 This requirement may be completed by labeling the beginning of the first printed chart by hand, or by
18 entering the information into the electronic polygraph file.

19 (3) The examiner shall give the examinee a reasonable opportunity to explain reactions on the ~~charts~~ charts.

20 (4) The examiner shall not issue or permit an employee of his to issue an examination report which is
21 misleading, biased, or ~~falsified;~~ falsified.

22 (5) Each examination report shall be a factual, impartial, and objective account of the pertinent information
23 developed during the examination and the examiner's professional conclusion, based on the analysis of the
24 ~~charts;~~ charts.

25 (6) All questions to be considered for chart analysis shall be documented in writing or an electronic question
26 set and shall be reviewed with the examinee prior to any testing; testing.

27 (7) An examiner shall not make a conclusive verbal or written examination report without having administered
28 two or more ~~tests~~ charts consisting of the same ~~questions;~~ and questions.

29 (8) An examiner shall not inquire into the sexual conduct or preferences of a person to whom a polygraph
30 examination is being given unless pertinent to an alleged sex-related crime, nor shall an examiner inquire
31 into the activities, affiliations or beliefs on religion, politics or race, except where there is specific
32 relevancy to an investigation.

33 (9) Each chart shall be signed by the examinee and the examiner, at the end of the chart before the end of the
34 ~~recording;~~ recording if using an analog instrument or not retaining electronic copies of the charts for the
35 specified three year period. Retaining reproducible electronic copies of all charts noting the names of the

36 examiner and examinee as well as the date and time of testing will also meet the requirements of this
37 subsection.

38 (10) An examiner shall conduct no more than ~~ten~~ five examinations in a 24 hour ~~period; and~~ period.

39 (11) For adequate auditing of polygraph examiners each examiner shall keep a daily log of examinations.

40

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

42 Eff. June 1, 1984;

43 Amended Eff. May 1, 2014; December 1, 1987; July 1, 1987; December 1, 1985.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0504

DEADLINE FOR RECEIPT: Friday, April 11, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Fix the spacing between (a) and the next language on line 2. Do the same for lines 7 and 11.

In Paragraph (a), I take it that your regulated public knows the terms "pneumo cardio" and "electrodermal"? I ask because I can't find a mention of "pneumo cardio" through google, and instead see references to "pnuemo" or "cardio-pnuemo." However, I am not a member of the regulated public and thought this might be a term of art?

Define or replace "suitable" on line 4.

Is the language on lines 5 and 6 saying what the requirement does not prohibit necessary?

I take it the reference to "properly functioning" in Paragraph (b), line 10, is that the instrument is functioning as designed?

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: March 28, 2014

12 NCAC 07D .0504 is amended as published in 28:11 NCR 1181 as follows:

1 **12 NCAC 07D .0504 POLYGRAPH INSTRUMENTS**

2 (a) A polygraph examiner shall not conduct an examination unless the instrument used makes a simultaneous recording
3 of at least three physiological tracings ~~including: the pneumograph, the cardiophygmograph, and the galvanograph.~~ including
4 the pneumo cardio and electrodermal changes. This recording must be in a form suitable for ~~examination~~ review by another
5 polygraph examiner. Such recordings shall be available to the Board or its designated representative. This requirement shall
6 not prohibit recording additional physiological phenomenon on the same charts.

7 (b) A polygraph examiner shall not conduct an examination on an instrument unless the ~~manufacturer has provided~~
8 ~~information for self calibration and sensitivity standards for that instrument.~~ A polygraph examiner shall calibrate his
9 instrument at least monthly and keep a signed and dated record of the dates of calibration as well as a signed and dated chart
10 ~~of that calibration.~~ examiner has ensured the instrument is properly functioning.

11 (c) A polygraph examiner shall:

12 (1) complete a functionality check or calibration of the instrument at time intervals that comply with the
13 manufacturer's recommendations; and

14 (2) maintain a signed and dated record of the charts collected during the functionality check or calibration for a
15 period of three years.

16
17 *History Note: Authority G.S. 74C-5;*
18 *Eff. June 1, 1984;*
19 *Amended Eff. May 1, 2014; August 1, 1998; December 1, 1985.*
20

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .1302

DEADLINE FOR RECEIPT: Friday, April 11, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

I think this Rule could be broken into three Paragraphs. Paragraph (a) would be the first sentence, Paragraph (b) the second and Paragraph (c) the rest of the language.

Why are you citing to G.S. 74C-4 in the History Note? I know it cites to the Board having meetings, but is it relevant for this purpose?

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: March 28, 2014

12 NCAC 07D .1302 is amended as published in 28:11 NCR 1181 as follows:

1 **12 NCAC 07D .1302 REQUIRED CONTINUING EDUCATION HOURS**

2 Each licensee shall complete ~~at least~~ 12 credit hours of continuing education training during each two year renewal
3 period. Credit shall be given only for classes that have been approved by the Board as set forth in Rule .1303 of this
4 Section. A licensee who attends a complete meeting of a regularly scheduled meeting of the Private Protective Services
5 Board shall receive ~~one credit hour~~ two credit hours for each meeting that the licensee attends, with credit being given
6 for a maximum of two meetings per year with no more than four credit hours per year and eight credit hours per renewal
7 period.

8
9 *History Note:* Authority G.S. 74C-2; 74C-4; 74C-5; 74C-22;
10 Eff. February 1, 2010;
11 Amended Eff. May 1, 2014;

12