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: 12 NCAC 07D .0105

RECOMMENDED ACTION:

 Approve, but note staff’s comment

X Object, based on:

 X Lack of statutory authority

X Unclear or ambiguous

 Unnecessary

 Failure to comply with the APA

 Extend the period of review

COMMENT:

In (d), it is not clear what standards the Administrator will use in deciding to exempt a person from the requirements of the paragraph. There are no specific guidelines for the waiver as required by G.S. 150B-19(6).

Robert A. Bryan, Jr.

Commission Counsel

rrc staff OPINION

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AGENCY: PRIVATE PROTECTIVE SERVICES BOARD

RULE CITATION: 12 NCAC 07D .1403

RECOMMENDED ACTION:

 Approve, but note staff’s comment

X Object, based on:

 Lack of statutory authority

X Unclear or ambiguous

 Unnecessary

 Failure to comply with the APA

 Extend the period of review

COMMENT:

In (4), it is not clear what is meant by "determine whether the applicant meets the requirements of this Paragraph." The fact that a psychiatrist has found an individual to be restored does not change the fact the individual has been declared incompetent or involuntarily committed. The prohibition on those are the requirements in this Item.

Robert A. Bryan, Jr.

Commission Counsel

rrc staff OPINION

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AGENCY: PRIVATE PROTECTIVE SERVICES BOARD

RULE CITATION: 12 NCAC 07D .1501

RECOMMENDED ACTION:

 Approve, but note staff’s comment

X Object, based on:

 X Lack of statutory authority

 Unclear or ambiguous

 Unnecessary

 Failure to comply with the APA

 Extend the period of review

COMMENT:

G.S. 93B-9 prohibits occupational licensing boards from requiring individuals to be more than 18 years of age as a requirement for receiving a license with certain inapplicable exceptions. There is no authority cited for the provision in (a)(6) that an applicant be at least 21.

Robert A. Bryan, Jr.

Commission Counsel

**§ 93B-9. Age requirements.**

Except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission pursuant to Chapters 17C, 17E, 74E, and 74G of the General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license with the following exceptions: the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission may establish a higher age as a requirement for holding certification through either Commission. (1973, c. 1356; 2010-97, s. 8; 2010-122, s. 27.)

rrc staff OPINION

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AGENCY: PRIVATE PROTECTIVE SERVICES BOARD

RULE CITATION: 12 NCAC 07D .1503

RECOMMENDED ACTION:

 Approve, but note staff’s comment

X Object, based on:

 Lack of statutory authority

X Unclear or ambiguous

 X Unnecessary

 Failure to comply with the APA

 Extend the period of review

COMMENT:

Assuming the reference in this rule to Rule .1407 should mean .1403, this rule is unclear because Rule .1403 is unclear. If .1407 is the current reference then it would appear that this rule is not necessary because it is adequately covered in .1507.

Robert A. Bryan, Jr.

Commission Counsel