

Burgos, Alexander N

Subject: FW: [External] Fwd: rules

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Monday, October 16, 2023 6:31 PM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Fwd: rules

Jeff, I haven't received your rules. Please submit them as soon as possible.

Thank you.

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] Fwd: rules

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Wednesday, October 11, 2023 12:19 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: [External] Fwd: rules

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Thank you. And I will do so on Monday morning. I, too, would be more comfortable if all were in a single package.

Sent from my iPhone

Burgos, Alexander N

Subject: FW: [External] Fwd: rules

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Wednesday, October 11, 2023 10:45 AM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Fwd: rules

Jeff,

I don't know when you're returning, but I trust you that you've deleted the offending sentence, as you've called it, from Rules .1101 and .1701. I think it'd be easier for all if when you get back, you just submit all the revised rules in one package to Dana at oah.rules@oah.nc.gov and copy me. The meeting is on next Thursday, 10/19, and I'd appreciate it if you could submit the rules before Tuesday, 10/17.

Hope you enjoy your travels.

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] Fwd: rules

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Wednesday, October 11, 2023 10:23 AM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Fwd: rules

Hi Jeff,

There are no rules attached to this email.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Wednesday, October 11, 2023 9:16 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] Fwd: rules

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Brian:

I am out-of-state and cannot attach documents from my iPhone, so am forwarding directly to you my paralegal's changes to .1101 and .1701. I have stricken the entirety of the offending sentence in each rule.

Jeff

Sent from my iPhone

Begin forwarded message:

From: Amanda Barham <abarham@bdixon.com>
Date: October 10, 2023 at 6:16:58 AM PDT
To: "Gray, Jeffrey" <JGray@bdixon.com>
Subject: RE: rules

Yes they are

Sincerely,

Amanda Barham

Paralegal for Cody R. Loughridge,
Jeffrey P. Gray, and Sabra J. Faires
Bailey & Dixon, LLP
PO Box 1351
Raleigh, NC 27602
919-828-0731
919-828-6592 fax
abarham@bdixon.com



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From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Tuesday, October 10, 2023 9:16 AM
To: Amanda Barham <abarham@bdixon.com>
Subject: Re: rules

Both look good, except they did not show up as being highlighted in yellow. Are they in your computer?

Sent from my iPhone

On Oct 10, 2023, at 9:13 AM, Amanda Barham <abarham@bdixon.com> wrote:

Sincerely,

Amanda Barham

Paralegal for Cody R. Loughridge,
Jeffrey P. Gray, and Sabra J. Faires
Bailey & Dixon, LLP
PO Box 1351
Raleigh, NC 27602
919-828-0731
919-828-6592 fax
abarham@bdixon.com

<image001.jpg>

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<14B NCAC 16 .1101 amended as published.10.09.23 (00590829xBFA5E).DOCX>

<14B NCAC 16 .1701 - Adopted as published.10.09.23 (00590929xBFA5E).DOCX>

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Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Monday, October 9, 2023 10:39 PM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

I appreciate the history of the enforcement of the rule. But just because something has not happened in the past does not mean it cannot happen in the future.

I think if you delete that last sentence in (d) we'll be fine.

Thank you.

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16
Attachments: 20231009191640585.pdf

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Monday, October 9, 2023 7:19 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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That is correct as to .1707. This Board has NEVER sought a criminal charge against a licensee for a violation of its law or administrative rules, and it has very rarely sought criminal charges for unlicensed behavior.

As to .1101 and .1701, I previously sent you a copy of the Log that the Associate is required to complete. I have attached it again. If you will note, the line is barely three inches long. That ain't room for much detail.

No Associate has ever had a question or an issue with this rule, as written. They seem to understand it perfectly, and have as to .1101 for 29 years. Further, no Associate has ever been denied their hours because there was insufficient detail on their Log, and no Associate has ever been charged with failing to provide sufficient detail. years. I think you are over-thinking it, but if you will kindly take the time to state the exact wording which will satisfy your concerns, I will amend both rules accordingly without further question or debate.

Jeffrey P. Gray

Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com



Associate Log

Instructions: This form is for the use of private investigator associates, digital forensics examiner associates, and electronic countermeasures trainees to document their training and experience hours, in accordance with Administrative Rules 14B NCAC 16 .0403.

Associate/trainee license type held:

☐ Private Investigator ☒ Digital Forensics Examiner ☐ Electronic Countermeasures[illegible]

Assoc./trainee name _____ Sponsor name _____

Assoc./trainee signature _____ Sponsor signature _____

Date_____

Date _____

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Monday, October 9, 2023 6:27 PM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

With respect to .1707, am I reading it correctly that a violation by the associate may only subject the sponsor to action against his or her license (74C-12) or the civil penalty (74C-17(c))? It wouldn't be grounds for anything else?

If so, I think it's clear enough and I can recommend approval.

As to .1101 and .1701, thank you for the changes. However, I don't think they address the objection. In the first sentence, the Rule states what the associate has to put on the Log. This is fine, and it makes sense—anyone reading this would understand what is required on the Log. Then, in the second sentence, the Rule confuses things by saying “details of the one-on-one training” have to be documented. The Rule does not say *what* details you want the associate to put on the Log. I don't think the change, which adds “reflecting the specific activity the Associate engaged in” helps clarify what details you're looking for. The question raised here is simple—what does the Associate need to write on the Log for the Board to consider it complete. If “details” means “each case the associate has worked, the number of hours spent on the case, and the type of work performed”, then fine, so be it, but the second sentence is redundant. If there is something else meant by “details”—and I can't think of what that would be—then the Rule needs to say what that is. I'm sorry if this was not clear previously, and if it is still not clear, please let me know and maybe we can talk it out by phone.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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1 14B NCAC 16 .1101 is amended as published in 37:19 NCR 1940 as follows:

2
3 **14B NCAC 16 .1101 DEFINITIONS**

4 In addition to the definitions set forth in G.S. 74C, the following definitions shall apply to this Section:

- 5 (1) "Private Investigator Associate" refers to an individual training to become a Private Investigator. A
6 Private Investigator Associate may also be referred to as a "trainee" in these Rules. A Private
7 Investigator Associate must complete three training levels as set out in this Section.
- 8 (2) "One-on-one Supervision" means person-to-person contact whereby the licensed investigator is
9 personally and directly supervising or training the Associate. The training investigator must be the
10 sponsoring licensed Private Investigator or any licensed Private Investigator who is a member of the
11 sponsoring Private Investigator's firm, association, or corporation. The Private Investigator
12 Associate may not subcontract his or her employment to another Private Investigator. However, the
13 sponsoring Private Investigator may subcontract the Private Investigator Associate if the sponsor
14 obtains prior written approval from the Board's Director by showing that the Private Investigator
15 Associate will receive an educational benefit from the subcontract employment and the Associate
16 will receive one-on-one supervision from another licensed Private Investigator. ~~[One-on-one~~
17 ~~supervision may also be satisfied if the Associate undergoes training from an individual or~~
18 ~~educational course approved by the Board's Director prior to the Associate receiving the training.]~~
- 19 (3) "Training Checklist" ~~[refers to means]~~the ~~[document(s) documents]~~ that shall state all areas of
20 training and work that the Associate has performed. The ~~[supervising sponsoring]~~ Private
21 Investigator is responsible for maintaining the training checklist and providing a copy of the
22 checklist to the Associate. The Training Checklist must reflect the date the Associate advances from
23 one level to another. The training checklist must be signed by the Associate and the sponsoring
24 Private Investigator at the end of each reporting period. In the event the Associate transfers
25 employment to another Private Investigator, the Associate must provide the new ~~[supervising~~
26 ~~sponsoring]~~ Private Investigator with the training checklist and the new sponsoring Private
27 Investigator will then be responsible for the maintenance of the checklist. The Training Checklist
28 must be updated on a quarterly basis for Level One Associates and on a yearly basis for Level Two
29 and Level Three Associates. The training checklist must be maintained pursuant to Rule .0108 of
30 this Chapter. When an Associate completes Level Three, the Training Checklist must be made a
31 part of the Associate's application for a Private Investigator's license. The Board shall have
32 immediate access to the training ~~[checklist. checklist upon request.]~~
- 33 (4) "Associate Log" ~~[refers to means]~~ the ~~[document(s) documents]~~ maintained by the ~~sponsoring~~
34 ~~Private Investigator Associate~~ which shall list each case the Associate has worked, the number of
35 hours spent on the case, and the type of work performed. Details of the one-on-one training
36 ~~[reflecting the specific activity the Associate engaged in]~~ must be documented within the Associate's
37 log.

1 *History Note:* *Authority G.S. 74C-2(c); 74C-5(2);*
2 *Eff. July 1, 1994;*
3 *Transferred and Recodified from 12 NCAC 07D .1101 Eff. July 1, 2015;*
4 *Readopted Eff. July 1, 2020;*
5 *Amended Eff. October 1, 2023.*

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16
Attachments: 14B NCAC 16 .1101 amended as published.10.09.23 (00590829xBFA5E).DOCX; 14B NCAC 16 .1701 - Adopted as published.10.09.23 (00590929xBFA5E).DOCX

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Monday, October 9, 2023 2:37 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Brain:

Attached are revised versions of .1101 and .1701 which I hope address your concerns regarding "details."

I have not made any change to .1707 since the version I sent you on September 20th.

Jeff

Jeffrey P. Gray
Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

1 14B NCAC 16 .1701 is adopted as published in 37:18 NCR 1883 as follows:

2
3 **SECTION .1700 – TRAINING AND SUPERVISION FOR DIGITAL FORENSICS**
4 **EXAMINER (D.F.E.) ASSOCIATES**
5

6 **14B NCAC 16 .1701 DEFINITIONS**

7 In addition to the definitions set forth in G.S. 74C, the following definitions shall apply to this Section:

- 8 (1) "Digital Forensics Examiner Associate" [refers to means] an individual training to become a digital
9 forensics examiner licensee. A Digital Forensics Examiner Associate may also be referred to as a
10 "trainee" in these Rules. A Digital Forensics Examiner Associate must complete three training levels
11 as set out in this Section.
- 12 (2) "One-on-one Supervision" means person-to-person contact whereby the licensee is personally and
13 directly supervising or training the Associate. The training licensee must be the sponsoring digital
14 forensics examiner licensee. The Digital Forensics Examiner Associate may not subcontract his or
15 her employment to another licensee. However, the sponsoring digital forensics examiner licensee
16 may subcontract the Digital Forensics Examiner Associate if the sponsor obtains prior written
17 approval from the Board's Director by showing that the Digital Forensics Examiner Associate will
18 receive an educational benefit from the subcontract employment and the Associate will receive one-
19 on-one supervision from another licensee.
- 20 (3) "Training Checklist" [refers to means] the [document(s) documents] that shall state all areas of
21 training and work that the Associate has performed. The [supervising licensee sponsor] is
22 responsible for maintaining the training checklist and providing a copy of the checklist to the
23 Associate. The Training Checklist must reflect the date the Associate advances from one level to
24 another. The training checklist must be signed by the Associate and the [sponsoring licensee
25 sponsor] at the end of each reporting period. In the event the Associate transfers employment to
26 another licensee, the Associate must provide the new [supervising licensee sponsor] with the
27 training checklist and the new [sponsoring licensee sponsor] will then be responsible for the
28 maintenance of the checklist. The Training Checklist must be updated on a quarterly basis for Level
29 One Associates and on a yearly basis for Level Two and Level Three Associates. The training
30 checklist must be maintained pursuant to Rule .0108 of this Chapter. When an Associate completes
31 Level Three, the Training Checklist must be made a part of the Associate's application for a digital
32 forensics examiner license. The Board shall have immediate access to the training [checklist
33 checklist upon request.]
- 34 (4) "Associate Log" [refers to means] the [document(s) documents] maintained by the Associate which
35 shall list each case the Associate has worked, the number of hours spent on the case, and the type of
36 work performed. Details of the one-on-one training [reflecting the specific activity the Associate
37 engaged in] must be documented within the Associate's log.

1 *History Note:* *Authority G.S. 74C-2(c); 74C-5(2);*
2 *Temporary Adoption Eff. April 28, 2023;*
3 *Eff. October 1, 2023.*

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, October 5, 2023 11:32 PM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

As I said in my September 19th email, I can recommend approval of the revised versions of Rules .0201, .0205, .0403, .0807, .1501, .1502, and .1601. Rules .1101 and .1701 continue to have ambiguous language as it relates to the “details” in item (4) of each rule, but are otherwise OK. Similarly, the revised version of Rule .1706 did not, in my opinion, satisfy the objection. Please refer to the staff opinions for details on those objections.

Rule .1707 was not attached to this email. Have you made further changes to that Rule, or should I look at the version you sent on 9/20?

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Gray, Jeffrey <jgray@bdixon.com>
Sent: Thursday, October 5, 2023 3:14 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Brian:

Can you please advise which, if any, of the revised rules -- .0201, .0205, .0403, .0807, .1101, .1501, .1502, .1601, .1701 and .1707 (attached) -- which I sent you on September 18th are responsive to your request such that there is no longer an objection.

Thank you.

Jeff

Jeffrey P. Gray

Of Counsel

Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500

P.O. Box 1351

Raleigh, NC 27601 (27602)

Telephone: 919-828-0731

Facsimile: 919-828-6592

E-mail: jgray@bdixon.com

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Wednesday, September 20, 2023 3:53 PM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

That's fine. Just to be clear, since we've gone around a few times on these, I will be recommending objection based on the staff opinions I've previously issued, and the Commission will not review the revised versions of the Rules you've sent in following the issuance of the staff opinions.

Based on your letter, the rules for which I am recommending approval will get an effective date of November 1, 2023.

Rules where I am recommending objection – .0201, .0205, .0403, .0807, .1101, .1501, .1502, .1601, .1701, .1706, and .1707.

Rules where I am recommending approval - .1503, .1504, .1702, .1703, .1704, .1705., and .1708.

Rules withdrawn - .1709.

Please let me know if you have a different understanding on any of this.

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16
Attachments: 14B NCAC 16 .1707 - Adopted as published.09.20.23 (00590941xBFA5E).DOCX

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Wednesday, September 20, 2023 3:44 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Brian:

Thank you for your e-mail, and your responses to the revised rules I submitted on Monday.

The failure to attached .1707 was a mere oversight. It is attached.

As to your suggestion I seek a waiver, I would prefer not to. As mentioned in previous e-mails, these rules need to pass as a package. I have requested an extension of the effective date for any rule not approved and believe that it is the wiser course of action to address your remaining demands between now and the deadline for the October RRC meeting. There is no practical difference between the Commission voting on your objection in your Staff Opinion and me addressing it before the October meeting and me asking that they be deferred until October.

Jeff

Jeffrey P. Gray

Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

1 14B NCAC 16 .1707 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1707 ENFORCEMENT**

4 A violation [of this Chapter or G. S. Chapter 74C] by the Associate may be deemed by the Board to be a violation [of
5 by] the sponsor if the violation is found to be the result of [insufficient supervision a failure to supervise which resulted
6 in the violation] and may subject the sponsor to [any an] enforcement [actions action] pursuant to [G.S. 74C-17, G.S.
7 74C-12(a) or G.S. 74C-17(c).]

8
9 *History Note: Authority G.S. 74C-2(c); 74C-5(2); 74C-12;*
10 *Temporary Adoption Eff. April 28, 2023;*
11 *Eff. August 1, 2023.*

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Wednesday, September 20, 2023 12:26 PM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

I will be recommending approval of Rule .1708 at this week's meeting as well. Sorry I did not have that in the email I sent earlier. No waiver necessary on this one.

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, September 19, 2023 6:07 PM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

Thank you for your submissions. You will want to also file a written request for a waiver under 26 NCAC 05 .0112, seeking waiver of Rule .0108(a), which states that "RRC shall not review rules rewritten in response to an objection until the next regular meeting following the objection." If the Commission grants that waiver, I will recommend approval of the revised versions of Rules .0205, .0807, .1502, and .1601. Also, since you appear to have complied with the APA by listing the contents of the form in Rule .0403 and removing the substantial change to Rule .1501, I'll recommend approval of the revised versions of .0201, .0403, and .1501 if the Commission grants the waiver.

That said, I did not receive a revised version of rule .1707. I don't know whether that was an oversight, but regardless, I will not be making any representations to the Commission on that Rule other than what's in my staff opinion. Further, I do not believe the changes to Rule .1706 satisfy the potential objections raised in the staff opinion, so I will not be recommending approval of the revised version of that Rule, if the Commission is inclined to grant the waiver and review the revised versions this month.

As to Rules .1101 and .1701, and the language on reporting periods, I do appreciate you clarifying that the "quarterly basis" and "yearly basis" is the reporting period specified. It wasn't clear to me on the initial read. That's why I asked you about it, and frankly your response was not helpful. Had you directed me to that language originally, I would not have recommended objection on that basis. Regardless, I continue to think the "details" language is ambiguous, and so I will continue to recommend objection on that basis even if the Commission grants the waiver.

Finally, as to your inability to attend the meeting, I would like to remind you that you have a month remaining on your extension from the August meeting. If you would like to try to attend, to argue in favor of your rules, please let me know, and we can defer all this to the October meeting.

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

From: Liebman, Brian R
Sent: Monday, September 18, 2023 2:54 PM
To: Burgos, Alexander N
Subject: FW: [External] Request for Extension of Effective Date; 14B NCAC 16 Amendments & Adoptions
Attachments: 20230918150307783.pdf

Brian Liebman
Counsel to the North Carolina Rules Review Commission Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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-----Original Message-----

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Monday, September 18, 2023 2:53 PM
To: jeanetter.k.doran@gmail.com
Cc: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] Request for Extension of Effective Date; 14B NCAC 16 Amendments & Adoptions

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Chair Doran:

Please see attached.

Jeff

Jeffrey P. Gray
Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

September 18, 2023

Via Electronic Mail (jeanette.k.doran@gmail.com & brian.liebman@oah.nc.gov)

Jeanette K. Doran
Chair, Rules Review Commission
1711 New Hope Church Road
Raleigh, NC 27609

RE: Extension of Effective Date; Amendments and Adoptions to 14B NCAC 16;
Private Protective Services Board
Our File: 3394.000001

Dear Chair Doran:

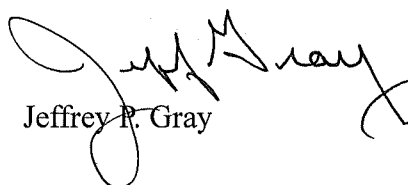
The above referenced Board has administrative rule amendments and adoptions on the Commission's agenda for its Thursday, September 21, 2023 meeting. Staff has objected to one or more of these rules. I am unable to attend the meeting and argue against these objections due to a conflicting meeting of one of the other occupational licensing boards I represent.

All but two of the above rules are interconnected. Approval of some and disapproval of others with the proposed effective date of October 1, 2023 will be problematic for both the Private Protective Services Board and its regulated industry.

By and through this letter I hereby request that for any of the above referenced rules approved by the Board on Thursday the effective date be extended to November 1, 2023.

Very truly yours,

BAILEY & DIXON, LLP



Jeffrey P. Gray

cc: Brian Leibman,
Staff Attorney (via e-mail)

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16
Attachments: 14B NCAC 16 .0201 - Amended as published.09.18.23 (00590819xBFA5E).DOCX; 14B NCAC.16 .0205 amended as published.09.18.23 (00590824xBFA5E).DOCX; 14B NCAC 16 .0403 amended as published.09.18.23 (00590827xBFA5E).DOCX; 14B NCAC 16 .0807 amended as published.09.15.23 (00590828xBFA5E).DOCX; 14B NCAC 16 .1101 amended as published.09.18.23 (00590829xBFA5E).DOCX; 14B NCAC 16 .1501 - Adopted as published.09.18.23 (00590830xBFA5E).DOCX; 14B NCAC 16 .1502 - Adopted as published.09.18.23 (00590832xBFA5E).DOCX; 14B NCAC 16 .1601 - Adopted as published.09.15.23 (00590927xBFA5E).DOCX; 14B NCAC 16 .1701 - Adopted as published.09.07.23 (00590929xBFA5E).DOCX; 14B NCAC 16 .1706 - Adopted as published.09.15.23 (00590940xBFA5E).DOCX; 20230918144659161.pdf; 20230918144710240.pdf

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Monday, September 18, 2023 2:47 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Brian:

Attached are revised rules. I believe I have met all your demands. And although I realize you cannot withdraw the objection to 14B NCAC 16 .1501 for failure to comply with the APA, I have stricken the language the regulated industry asked to be added during the Public Comment Period. Also, while I am not absolutely certain I have formatted .1502 correctly since you made changes to the language that was changed post-notice in the Register, I feel as if I have.

I would appreciate you telling the Commission members that you have already received changes to the rules in response to your Staff Opinions.

I am still confused as to your objection to .1101(3) and (4). As to (3), the third full sentence clearly states that the Level One is due “quarterly” and the Level Two and Level Three are due “on a yearly basis.” What other reporting period are you seeking be specified? As I explained in my initial response, there is no time limit on achieving these levels so that is not it. Further, as to the check list being a form which the contents of are not specified in the rule, the rule says that the checklist “must reflect...” I have attached copies of the three checklists as proof that what is in the rule is what is in the checklist (i.e. form.)

As to (4), just as with the Training Checklists, the contents of this form are in the rule, as well. Again, I have attached a copy of the Associate Log as proof I am telling the truth.

In your Staff Opinion, you are playing semantics with my reply. Currently – as in until this rule amendment is passed – it is the supervisor who completes the form. My examples in my reply to you were intended to be first person entries by a supervisor. When the rule amendment passes, such an example would be first person entries by an Associate or “trainee.” Also, “details” is an explanation for the requirement that training must be documented as required as in the previous sentence.

Jeff

Jeffrey P. Gray

Of Counsel

Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500

P.O. Box 1351

Raleigh, NC 27601 (27602)

Telephone: 919-828-0731

Facsimile: 919-828-6592

E-mail: jgray@bdixon.com



Instructions: This form is for the use of private investigator associates, digital forensics examiner associates, and electronic countermeasures trainees to document their training and experience hours, in accordance with Administrative Rules 14B NCAC 16 .0403.

☐ Private Investigator ☐ Digital Forensics Examiner ☐ Electronic CountermeasuresDate _____



North Carolina Department of Public Safety

Private Protective Services Board

LEVEL ONE TRAINING CHECKLIST

Private Investigator Associate and Digital Forensics Examiner Associate

Instructions: This form is for the exclusive use of private investigator associates, digital forensics examiner associates, and their sponsors. This checklist is to be updated on a quarterly basis, pursuant to administrative rules 14B NCAC 16 .1101(3) and .1701(3), and maintained in accordance with administrative rule 14B NCAC 16 .0108.

Did the associate, pursuant to administrative rule 14B NCAC 16 .1102(b) or .1702(b), work under the one-on-one supervision of their sponsor during their first 40 hours of employment?

☐ YES, date of completion: _____

☐ NO, for the following reason(s): _____

Did the associate, pursuant to administrative rule 14B NCAC 16 .1102(b) or .1702(b), complete an additional 120 hours of work while under the one-on-one supervision of their sponsor during their first 1,000 hours, or first year, of employment?

☐ YES, date of completion: _____

☐ NO, for the following reason(s): _____

Did the associate, pursuant to administrative rule 14B NCAC 16 .1102(d) or .1702(d), meet with their sponsor, or another licensee at their firm, at least four times per month during this 3-month period to review each case the associate is working on or has worked on since the last meeting?

☐ YES, dates of meetings:

☐ NO, for the following reason(s): _____

Has the associate acquired at least 1,000 hours of training and satisfied the requirements of Level One?

☐ YES, date completed: _____

☐ NO, the associate has acquired a total of _____ hours of training, as of this date: _____

Associate Name

Sponsor Name

Associate Licensee No. & Exp. Date

Sponsor License No. & Exp. Date

Associate Signature

Sponsor Signature

Date

Date



North Carolina Department of Public Safety

Private Protective Services Board

LEVEL TWO TRAINING CHECKLIST

Private Investigator Associate and Digital Forensics Examiner Associate

Instructions: This form is for the exclusive use of private investigator associates, digital forensics examiner associates, and their sponsors. This checklist is to be updated on a quarterly basis, pursuant to administrative rules 14B NCAC 16 .1101(3) and .1701(3), and maintained in accordance with administrative rule 14B NCAC 16 .0108.

Did the associate, pursuant to administrative rule 14B NCAC 16 .1103(a) or .1703(a), work under the one-on-one supervision of their sponsor during their first 40 hours of employment?

☐ YES, date of completion: _____

☐ NO, for the following reason(s): _____

Did the associate, pursuant to administrative rule 14B NCAC 16 .1103(a) or .1703(a), complete an additional 40 hours of work while under the one-on-one supervision of their sponsor during their first 1,000 hours, or first year, of employment?

☐ YES, date of completion: _____

☐ NO, for the following reason(s): _____

Did the associate, pursuant to administrative rule 14B NCAC 16 .1103(c) or .1703(c), meet with their sponsor, or another licensee at their firm, at least four times per month during this 3-month period to review each case the associate is working on or has worked on since the last meeting?

☐ YES, dates of meetings:

☐ NO, for the following reason(s): _____

Has the associate acquired at least 2,000 hours of training and satisfied the requirements of Level Two?

☐ YES, date completed: _____

☐ NO, the associate has acquired a total of _____ hours of training, as of this date: _____

Associate Name

Sponsor Name

Associate Licensee No. & Exp. Date

Sponsor License No. & Exp. Date

Associate Signature

Sponsor Signature

Date

Date



North Carolina Department of Public Safety

Private Protective Services Board

LEVEL THREE TRAINING CHECKLIST

Private Investigator Associate and Digital Forensics Examiner Associate

Instructions: This form is for the exclusive use of private investigator associates, digital forensics examiner associates, and their sponsors. This checklist is to be updated on a quarterly basis, pursuant to administrative rules 14B NCAC 16 .1101(3) and .1701(3), and maintained in accordance with administrative rule 14B NCAC 16 .0108.

Did the associate, pursuant to administrative rule 14B NCAC 16 .1104(b) or .1704(b), work under the one-on-one supervision of their sponsor during their first 40 hours of employment?

☐ YES, date of completion: _____

☐ NO, for the following reason(s): _____

Did the associate, pursuant to administrative rule 14B NCAC 16 .1104(d) or .1704(d), meet with their sponsor, or another licensee at their firm, at regular intervals to review each case the associate is working on or has worked on since the last meeting?

☐ YES, date(s) of meetings:

☐ NO, for the following reason(s): _____

Has the associate acquired at least 3,000 hours of training and satisfied the requirements of Level Three?

☐ YES, date completed: _____

☐ NO, the associate has acquired a total of _____ hours of training, as of this date: _____

Associate Name

Sponsor Name

Associate Licensee No. & Exp. Date

Sponsor License No. & Exp. Date

Associate Signature

Sponsor Signature

Date

Date

1 14B NCAC 16 .0201 is amended as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .0201 APPLICATION FOR LICENSE AND TRAINEE PERMITS**

4 (a) Each applicant for a license or trainee permit shall submit an online application on the website provided by the
5 Board. The online application shall be accompanied by:

- 6 (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State
7 Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that
8 shall be mailed separately to the Board's office;
- 9 (2) one head and shoulders digital photograph of the applicant in JPG, JPEG, or PNG format of
10 sufficient quality for identification, taken within six months prior to online application and
11 submitted by uploading the photograph online with the application submission;
- 12 (3) ~~upload online~~ a statement of the results of a statewide criminal history records search by the
13 reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the
14 applicant has resided within the preceding 60 months;
- 15 (4) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and
16 a separate credit card transaction fee;
- 17 (5) the actual cost charged to the Private Protective Services Board by the State Bureau of
18 Investigation to cover the cost of criminal record checks performed by the State Bureau of
19 Investigation, collected online by the Private Protective Services Board;
- 20 (6) an Equifax credit check run within 30 days of the license application submission date, which will
21 be submitted to the Board's investigator during the application process; and
- 22 (7) five letters attesting to the good character and reputation of the applicant using the online character
23 letter submission process.

24 (b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board
25 and signed by the applicant and his or her prospective supervisor, stating that the trainee applicant shall at all times
26 work with and under the direct supervision of that supervisor and the form shall be uploaded as part of the online
27 application process.

28 (c) Private investigator and digital forensics examination trainees applying for a license shall make available for
29 inspection a log of experience on a form provided by the ~~Board.~~ Board as required by Rule .0403 of this Chapter.

30 (d) Each applicant must upload evidence of high school graduation either by diploma, G.E.D. certificate, or other
31 proof.

32 (e) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the
33 Director, or another Board representative designated by the Director prior to being issued a license. The applicant
34 shall discuss the provisions of G.S. 74C and the administrative rules in this Chapter during the personal meeting. The
35 applicant shall sign a form provided by the Board indicating that he or she has reviewed G.S. 74C and the
36 administrative rules in this Chapter with the Board's representative. During a national or State declared state of

1 emergency that restricts or prohibits travel, the personal meeting requirement may be waived if requested by the
2 applicant in favor of alternative means of communication.

3
4 *History Note: Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1; 74C-12;*
5 *Eff. June 1, 1984;*
6 *Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998; December 1, 1995; July 1, 1987;*
7 *December 1, 1985;*
8 *Transferred and Recodified from 12 NCAC 07D .0201 Eff. July 1, 2015;*
9 *Amended Eff. November 1, 2017;*
10 *Readopted Eff. March 1, 2020;*
11 *Emergency Amendment Eff. May 6, 2020;*
12 *Temporary Amendment Eff. July 24, 2020;*
13 *Temporary Amendment Expired May 14, 2021;*
14 *Amended Eff. January 1, 2022; July 1, 2021;*
15 *Temporary Amendment Eff. April 28, 2023;*
16 *Amended Eff. October 1, 2023.*

1 14B NCAC 16 .0403 is amended as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .0403 TRAINEE PERMIT REQUIREMENTS**

4 (a) In addition to the requirements of Section .0200 of this Chapter, applicants for a trainee permit in private
5 ~~investigation or countermeasures~~ investigation, electronic countermeasures, or digital forensics examination shall be
6 directly supervised by a licensee [approved by the Board] and that supervisor shall be responsible for the training and
7 ~~investigations~~ other professional activities of the trainee.

8 (b) Trainees who wish to apply for a license must submit an application to the Board in accordance with Rule .0201
9 of this Chapter.

10 (c) Private ~~investigator~~ investigator, electronic countermeasures, or digital forensics examination trainees shall
11 maintain a log on a form provided by the Board on its website as evidence of [experience, which sets forth the case
12 number, date, work or training activity and the number of hours. The log shall be signed and dated by both the trainee
13 and the sponsor.] This log must be available for inspection by Board staff when applying for a license.

14 (d) Any request for renewal of a trainee permit or for issuance of a license shall be accompanied by an evaluation
15 report of the trainee's performance on a form provided by the Board on its website and submitted by the trainee's
16 supervisor.

17
18 *History Note: Authority G.S. 74C-2; 74C-5;*

19 *Eff. June 1, 1984;*

20 *Amended Eff. December 1, 1985;*

21 *Transferred and Recodified from 12 NCAC 07D .0403 Eff. July 1, 2015;*

22 *Readopted Eff. August 1, 2020;*

23 *Temporary Amendment Eff. April 28, 2023;*

24 *Amended Eff. October 1, 2023.*

1 14B NCAC 16 .0807 is amended as published in 37:18 NCR 1883 as follows:

2
3 **14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED LICENSEES AND REGISTRANTS**

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~~ investigator, close personal protection, or any other licensee licensees applying for an armed
7 ~~security guard firearm registration~~ permit shall first complete a ~~five-hour~~ training course consisting of the courses set
8 forth in Rule .0707(a)(1) and (2) of this ~~[Chapter and all additional training requirements set forth in that Rule.~~
9 Chapter.]

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

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

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

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

29 (e) All [initial] ~~armed security guard~~ training required by this [Chapter Rule] shall be administered by a certified
30 trainer and [the training required by Subparagraph (c) of this Rule and the initial training for authorization for a rifle
31 or shotgun] shall be completed no more than 90 days prior to the date of ~~issuance of~~ application for the licensee permit
32 or armed security guard firearm registration permit.

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

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

(h) Applicants for re-certification of a [armed] licensee permit or an armed security guard firearm registration permit shall complete ~~a~~ the basic recertification training course for armed security guards that consists of at least four hours of classroom instruction and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule. [Subparagraphs Subparagraph] (c)(2), operation under subparagraph (c)(3), and subparagraphs (c)(4) and (5) of this Rule shall be reviewed prior to range [firing firing; and however] maintenance under Subparagraph (c)(3) may be reviewed after range firing. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of a licensee permit or 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 guard's duty firearm for all companies is] 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 armed security guard 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 established 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 Subsection (c) of 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 established 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 a [armed] licensee permit or an armed security guard firearm registration permit who possesses a current firearms trainer certificate shall be given a firearms licensee permit or registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d) of this Rule.

(r) An armed licensee or 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 licensee or security guard fails to qualify on any course of fire, [the] licensee or [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 licensee or security guard [verbally] 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 [in writing] on the next business day.

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

1 *History Note:* *Authority G.S. 74C-5; 74C-9; 74C-13;*
2 *Eff. June 1, 1984;*
3 *Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987;*
4 *Temporary Amendment Eff. January 14, 2002;*
5 *Amended Eff. October 1, 2013; October 1, 2010; June 1, 2009; February 1, 2006; August 1, 2002;*
6 *Transferred and Recodified from 12 NCAC 07D .0807 Eff. July 1, 2015;*
7 *Amended Eff. January 1, 2018; February 1, 2016; October 1, 2015;*
8 *Readopted Eff. November 1, 2019;*
9 *Amended Eff. January 1, 2023; February 1, 2022;*
10 *Temporary Amendment Eff. April 28, 2023;*
11 *Amended Eff. October 1, 2023.*

1 14B NCAC 16 .1101 is amended as published in 37:19 NCR 1940 as follows:

2
3 **14B NCAC 16 .1101 DEFINITIONS**

4 In addition to the definitions set forth in G.S. 74C, the following definitions shall apply to this Section:

- 5 (1) "Private Investigator Associate" refers to an individual training to become a Private Investigator. A
6 Private Investigator Associate may also be referred to as a "trainee" in these Rules. A Private
7 Investigator Associate must complete three training levels as set out in this Section.
- 8 (2) "One-on-one Supervision" means person-to-person contact whereby the licensed investigator is
9 personally and directly supervising or training the Associate. The training investigator must be the
10 sponsoring licensed Private Investigator or any licensed Private Investigator who is a member of the
11 sponsoring Private Investigator's firm, association, or corporation. The Private Investigator
12 Associate may not subcontract his or her employment to another Private Investigator. However, the
13 sponsoring Private Investigator may subcontract the Private Investigator Associate if the sponsor
14 obtains prior written approval from the Board's Director by showing that the Private Investigator
15 Associate will receive an educational benefit from the subcontract employment and the Associate
16 will receive one-on-one supervision from another licensed Private Investigator. ~~[One-on-one
17 supervision may also be satisfied if the Associate undergoes training from an individual or
18 educational course approved by the Board's Director prior to the Associate receiving the training.]~~
- 19 (3) "Training Checklist" ~~[refers to means]~~ the ~~[document(s) documents]~~ that shall state all areas of
20 training and work that the Associate has performed. The ~~[supervising sponsoring]~~ Private
21 Investigator is responsible for maintaining the training checklist and providing a copy of the
22 checklist to the Associate. The Training Checklist must reflect the date the Associate advances from
23 one level to another. The training checklist must be signed by the Associate and the sponsoring
24 Private Investigator at the end of each reporting period. In the event the Associate transfers
25 employment to another Private Investigator, the Associate must provide the new ~~[supervising
26 sponsoring]~~ Private Investigator with the training checklist and the new sponsoring Private
27 Investigator will then be responsible for the maintenance of the checklist. The Training Checklist
28 must be updated on a quarterly basis for Level One Associates and on a yearly basis for Level Two
29 and Level Three Associates. The training checklist must be maintained pursuant to Rule .0108 of
30 this Chapter. When an Associate completes Level Three, the Training Checklist must be made a
31 part of the Associate's application for a Private Investigator's license. The Board shall have
32 immediate access to the training ~~[checklist. checklist upon request.]~~
- 33 (4) "Associate Log" ~~[refers to means]~~ the ~~[document(s) documents]~~ maintained by the ~~sponsoring
34 Private Investigator Associate~~ which shall list each case the Associate has worked, the number of
35 hours spent on the case, and the type of work performed. Details of the one-on-one training must be
36 documented within the Associate's log.

1 *History Note:* *Authority G.S. 74C-2(c); 74C-5(2);*
2 *Eff. July 1, 1994;*
3 *Transferred and Recodified from 12 NCAC 07D .1101 Eff. July 1, 2015;*
4 *Readopted Eff. July 1, 2020;*
5 *Amended Eff. October 1, 2023.*

14B NCAC 16 .1501 is adopted as published in 37:18 NCR 1883 as follows:

SECTION .1500 - CLOSE PERSONAL PROTECTION

14B NCAC 16 .1501 EXPERIENCE REQUIREMENTS FOR A CLOSE PERSONAL PROTECTION LICENSE

(a) In addition to the requirements of G.S. 74C-8 and Section .0200 of this Chapter, applicants for a close personal protection license shall:

- (1) establish ~~[to the Board's satisfaction]~~ three years of verifiable experience while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) with a private person, firm, association, or corporation within the last 10 years;
- (2) establish ~~[to the Board's satisfaction]~~ three years of verifiable experience while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) with any federal, state, county or municipal law enforcement agency, or other governmental agency within the last 10 years;
- (3) 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 while conducting close personal protection services as set forth in G.S. 74C-3(a)(3a) while serving in an official capacity; or
- (4) have completed a course in close personal protection approved by the Board given by a school specializing in close personal protection (or "executive protection") that consists of a minimum of 40 hours of actual classroom and practical instruction within the last 2 ~~[years; and years as required by Rule .1502 of this Chapter.]~~
- ~~[(5) possess a basic first aid certificate from the American Red Cross and a valid CPR and AED certification from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council.]~~

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a close personal protection 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 while conducting close personal protection as set forth in in G.S. 74C-3(a)(3a) while serving in an official capacity with any entity described in Paragraph (a) of this rule.

*History Note: Authority G.S. 74C-5(2); 93B-15.1;
Temporary Adoption Eff. April 28, 2023;
Eff. October 1, 2023.*

1 14B NCAC 16 .1502 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1502 TRAINING REQUIREMENTS FOR CLOSE PERSONAL PROTECTION**
4 **LICENSE**

5 (a) Applicants for a close personal protection license who do not have the experience set forth in Rule .1501(a)(1)
6 through (3) or (b)(1) and (2) shall complete a basic close personal protection (or “executive protection”) training
7 course approved by the Board within the previous 24 months. The course shall consist of a minimum of 40 hours of
8 classroom and practical instruction [~~including:~~ **including as a minimum:**]

9 (1) Fundamentals of personal protection, including [**as a minimum**] mission planning, performing site
10 surveys, route selection (primary, secondary, etc.), medical evacuation, walking formations (single,
11 multiple, etc.), communications with protectees, and transitional movements (arrivals, departures,
12 plan changes, hasty movements, etc.) – (minimum of 26 hours);

13 (2) Practical exercises – (minimum of 12 hours); and

14 (3) Legal Issues, including the rules ~~set forth in this Section; G.S. 74C-17 and 14B NCAC 16 .0807~~
15 [**applicable to each of the below blocks of instruction and this Section**] and North Carolina’s laws
16 on use of force, and the federal and State firearms law. The 3 hour unarmed guard block of
17 instruction, [**set forth in 14B NCAC 16 .0707**] if performing services unarmed, or the 4 hour armed
18 guard block of instruction [**set forth in 14B NCAC 16 .0807(c)(1) if performing services armed**]
19 taught by a certified [~~instructor, or an equivalent block of instruction,~~ **instructor**] shall fulfill this
20 requirement – (minimum of 2 hours).

21 (b) In addition to the minimum classroom and practical instruction required by subsection (a) of this Rule, the
22 applicant must possess a basic first aid certificate from the American Red Cross and a valid CPR and AED certification
23 from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety
24 Council.

25 (c) Subsection (a)(3) of this Rule may be conducted remotely as provided for by 14B NCAC 16 .0707(c).

26
27 *History Note: Authority G.S. 74C-5;*
28 *Temporary Adoption Eff. April 28, 2023;*
29 *Eff. October 1, 2023.*

1 14B NCAC 16 .1601 is adopted as published in 37:18 NCR 1883 with changes as follows:

3 **SECTION .1600 – DIGITAL FORENSICS EXAMINER**

5 **14B NCAC 16 .1601 EXPERIENCE REQUIREMENTS FOR A DIGITAL FORENSICS EXAMINER**
6 **LICENSE**

7 (a) In addition to the requirements of Section .0200 of this Chapter, applicants for a Digital Forensic Examiner
8 (D.F.E.) license shall:

- 9 (1) establish [to the Board's satisfaction] three years of verifiable experience within the past five years
10 conducting digital forensic examinations as defined by G.S. 74C-3(a)(5a) individually, or with any
11 private company or federal, state, county or municipal agency;
12 (2) hold a North Carolina private investigator license, or private investigator license from a state
13 reciprocal with North Carolina, [and] have completed a course of instruction consisting of not less
14 than 40 hours of live classroom and practical instruction in digital [forensics forensics,] and obtained
15 certification from a certifying entity approved by the Board within the previous two years;
16 (3) establish [to the Board's satisfaction] that the applicant has been qualified as an expert witness in
17 an area of digital forensics in a court of law using the standard set forth by the United States Supreme
18 Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny cases,
19 within the previous three years; or
20 (4) establish [to the Board's satisfaction] a military occupational specialty and two years of verifiable
21 experience conducting digital forensics examinations within the past five years in the U.S. Armed
22 Forces.

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

- 25 (1) the spouse holds a current license, certification, or registration from another jurisdiction and the
26 other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements;
27 and
28 (2) the spouse has two years of verifiable experience conducting digital forensics examinations within
29 the past five years.

30 (c) [Using the formula in Rule .0204(d) of this Chapter, the The] Board shall give credit toward the experience
31 requirements set forth in Paragraphs (a) and (b) of this Rule as follows:

- 32 (1) An applicant shall receive 400 hours of experience credit for an associate's degree. The Board shall
33 grant up to 100 additional hours if the applicant can demonstrate that further training or course-work
34 related to digital forensics examination was received while obtaining the associate's degree.
35 (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall
36 grant up to 200 additional hours if the applicant can demonstrate that further training or course-work
37 related to digital forensics examination was received while obtaining the bachelor's degree.

1 (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall
2 grant an additional 300 additional hours if the applicant can demonstrate that further training or
3 course-work related to digital forensics examination was received while obtaining the graduate
4 degree.

5
6 *History Note:* *Authority G.S. 74C-5; 93B-15.1;*
7 *Temporary Adoption Eff. April 28, 2023;*
8 *Eff. October 1, 2023.*

1 14B NCAC 16 .1701 is adopted as published in 37:18 NCR 1883 as follows:

2
3 **SECTION .1700 – TRAINING AND SUPERVISION FOR DIGITAL FORENSICS**
4 **EXAMINER (D.F.E.) ASSOCIATES**
5

6 **14B NCAC 16 .1701 DEFINITIONS**

7 In addition to the definitions set forth in G.S. 74C, the following definitions shall apply to this Section:

- 8 (1) "Digital Forensics Examiner Associate" [refers to means] an individual training to become a digital
9 forensics examiner licensee. A Digital Forensics Examiner Associate may also be referred to as a
10 "trainee" in these Rules. A Digital Forensics Examiner Associate must complete three training levels
11 as set out in this Section.
- 12 (2) "One-on-one Supervision" means person-to-person contact whereby the licensee is personally and
13 directly supervising or training the Associate. The training licensee must be the sponsoring digital
14 forensics examiner licensee. The Digital Forensics Examiner Associate may not subcontract his or
15 her employment to another licensee. However, the sponsoring digital forensics examiner licensee
16 may subcontract the Digital Forensics Examiner Associate if the sponsor obtains prior written
17 approval from the Board's Director by showing that the Digital Forensics Examiner Associate will
18 receive an educational benefit from the subcontract employment and the Associate will receive one-
19 on-one supervision from another licensee.
- 20 (3) "Training Checklist" [refers to means] the [document(s) documents] that shall state all areas of
21 training and work that the Associate has performed. The [supervising licensee sponsor] is
22 responsible for maintaining the training checklist and providing a copy of the checklist to the
23 Associate. The Training Checklist must reflect the date the Associate advances from one level to
24 another. The training checklist must be signed by the Associate and the [sponsoring licensee
25 sponsor] at the end of each reporting period. In the event the Associate transfers employment to
26 another licensee, the Associate must provide the new [supervising licensee sponsor] with the
27 training checklist and the new [sponsoring licensee sponsor] will then be responsible for the
28 maintenance of the checklist. The Training Checklist must be updated on a quarterly basis for Level
29 One Associates and on a yearly basis for Level Two and Level Three Associates. The training
30 checklist must be maintained pursuant to Rule .0108 of this Chapter. When an Associate completes
31 Level Three, the Training Checklist must be made a part of the Associate's application for a digital
32 forensics examiner license. The Board shall have immediate access to the training [checklist
33 checklist upon request.]
- 34 (4) "Associate Log" [refers to means] the [document(s) documents] maintained by the Associate which
35 shall list each case the Associate has worked, the number of hours spent on the case, and the type of
36 work performed. Details of the one-on-one training must be documented within the Associate's log.
37

1 *History Note:* *Authority G.S. 74C-2(c); 74C-5(2);*
2 *Temporary Adoption Eff. April 28, 2023;*
3 *Eff. October 1, 2023.*

1 14B NCAC 16 .1706 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1706 CONSIDERATION OF [PRACTICAL] EXPERIENCE**

4 ~~[(a)]~~ The Board shall consider any practical experience [in computer science or digital forensics examination] gained
5 [by the applicant] prior to the application date. The Board shall not consider experience claimed by the applicant if
6 the experience was gained after December 1, 2022:

7 (1) by contracting private protective services to another person, firm, association, or corporation while
8 not in possession of a valid private protective services license; or

9 (2) when employed by a company contracting private protective services to another person, firm,
10 association, or corporation while the company is not in possession of a valid private protective
11 services license.

12 (b) The Board shall consider any educational experience referred to in Rule .1705 of this Section.

13
14 *History Note:* *Authority G.S. 74C-5(2);*
15 *Temporary Adoption Eff. April 28, 2023;*
16 *Eff. August 1, 2023.*

1 14B NCAC 16 .0205 is amended as published in 37:19 NCR 1940 as follows:

2
3 **14B NCAC 16 .0205 COMPANY BUSINESS LICENSE**

4 (a) Any firm, association, or corporation required to be licensed pursuant to G.S. 74C-2(a) shall upload on the Board's
5 website an application for a company business license on a form provided by the Board. Only a sole proprietorship
6 that is owned and operated by an individual licensee shall be exempt from this Rule. This application for license shall
7 require [such information as] the firm, association, or corporation name; the address of its principal office within the
8 State; any past conviction for criminal offenses of any company director, or officer; information concerning the past
9 revocation, suspension, or denial of a business or professional license to any director or officer; a list of all directors
10 and officers of the firm, association, or corporation; a list of all persons, firms, associations, corporations or other
11 entities owning 10 percent or more of the outstanding shares of any class of stock; and the name and address of the
12 qualifying agent.

13 (b) In addition to the items required in Paragraph (a) of this Rule, an out-of-state corporation shall file with its
14 application for a license, a copy of its certificate of authority to transact business in this State issued by the North
15 Carolina Secretary of State in accordance with G.S. 55-15-01. The corporation shall also file a consent to service of
16 process and pleadings that shall be authenticated by its corporate seal and accompanied by a duly certified copy of the
17 resolution of the board of directors authorizing the proper officer or officers to execute the consent.

18 (c) After filing a completed application with the Board, the Board shall conduct a background investigation to
19 determine if the qualifying agent is in a management position. [A management position means a position which
20 manages established divisions or subdivisions of the firm, association or corporation and directs the work of one or
21 more supervisors, has the authority to hire, reward, discipline or discharge employees, and may also provide
22 suggestions for changes in policy to senior executives with policy-making authority.] The Board shall also determine
23 if the directors or officers have the requisite good moral character as defined in G.S. 74C-8(d)(2). For purposes of this
24 Rule, "conviction" means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court
25 by a judge or jury.

26 (d) Upon satisfactory completion of the background investigation, a company business license shall be issued. This
27 license shall be conspicuously displayed at the [principle principal] place of business within North Carolina.

28 (e) The company business license shall be issued only to the business entity and shall not be construed to extend to
29 the licensing of its officers and employees.

30 (f) The issuance of the company business license is issued to the firm, association, or corporation in addition to the
31 license issued to the qualifying agent. The qualifying agent for the firm, association, or corporation which has been
32 issued the company business license shall be responsible for assuring compliance with G.S. 74C.

33 (g) Dissolution or administrative suspension of corporate status shall result in suspension of the company business
34 license by operation of law and may result in disciplinary action for unlicensed [activity, if it is determined that the
35 suspension was due to intentional disregard of the law or inaction.]

36
37 *History Note: Authority G.S. 74C-2(a); 74C-5;*

1 *Eff. April 1, 1993;*
2 *Amended Eff. February 1, 1995;*
3 *Transferred and Recodified from 12 NCAC 07D .0205 Eff. July 1, 2015;*
4 *Readopted Eff. March 1, 2020;*
5 *Amended Eff. August 1, 2023.*

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Thursday, September 14, 2023 4:50 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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I know that. That is exactly why I don't want to withdraw them.

Jeffrey P. Gray

Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, September 14, 2023 4:44 PM
To: Gray, Jeffrey <JGray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

If you withdraw the permanent rules, the temporary rules will expire. I'm sorry if that was unclear.

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Thursday, September 14, 2023 4:42 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Well, since I cannot be there to argue on behalf of my client, I know what will happen...

As to the expiration after 270 days, please re-read N.C.G.S. 150B-21.1(d)(5). It states the temporary rules will expire **“unless the permanent rule adopted to replace the temporary rule has been submitted to the Commission.”** The permanent rules have been submitted to the Commission. Any expiration has been stayed.

Jeffrey P. Gray

Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, September 14, 2023 4:29 PM
To: Gray, Jeffrey <JGray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

To be clear, I have not lodged any objections. I have recommended objection to my client. They may decide not to agree with my opinion. The decision to object is theirs, not mine.

Notwithstanding your request, I will not recommend objection to rules that do not merit an objection. The Board may withdraw any rules for which there is no objection to existing language. However, bear in mind that where the permanent rules are replacing temporary rules, those temporary rules would expire if it has been more than 270 days since they became effective. Alternatively, the Board may ask the Commission for a delayed effective date for the rules for which I am recommending approval. To be clear, the Board would need to specify some later date, it can't just be "whenever the other rules are approved."

I am sorry that you are frustrated and offended. That was not my intent. My only intention was to share the agency's relevant responses with my client to aid in their decision-making process.

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Thursday, September 14, 2023 2:16 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Brian:

As I state below, it is senseless to approve only a portion of these rules. So, since there is nothing I can do about the three Objections you have lodged for failure to comply with the APA I would like the Commission to object to them as a package. Is there a formal action I need to take to do that? I can find nothing in the 26 NCAC 05 rules addressing such.

Also, I take umbrage at your characterization in your Objections that I have not been cooperative. What I have tried to do is: 1) educate you on this Board and the industry it regulates, and 2) try to get you to understand that a majority of the things you have objected to already exist in the Board's rules and have passed muster with Rules Review staff attorneys time and time again. Many were written to comply with prior Request for Technical Changes. None of the Sec. .1500, Sec. .1600 or Sec. .1700 rules were written from scratch; they were modeled after existing rules which had already been approved by the RRC in the past. But now the rules of the game have changed and there are objections. Do you not see where that is frustrating?

There is a domino effect here. I put the entirety of this Board's rules through the Periodic Review of Rules process and worked very hard and closely with Amanda so that they would all be mirror images for the then 11 (now 13) licenses and registration issued, and now they are going to be inconsistent again.

I just don't see where there can be all this "ambiguity" when the industry has understood and applied the existing, similar rules for years. The ambiguity is going to arise because they will now all be different. That deeply concerns me (until I can go through the process to amend them all to make them consistent again.)

I am going to try to meet as many of your demands as possible by Monday, September 18th at 5:00 p.m., understanding of course that the entire package of rules needs to be objected to so that they do not become effective piece-meal.

Jeff

Jeffrey P. Gray
Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592

E-mail: jgray@bdixon.com

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, September 14, 2023 10:54 AM
To: Gray, Jeffrey <jgray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

Pursuant to 26 NCAC 05 .0107, changes made in response to a staff opinion on clarity may be submitted no later than 5:00 p.m. on the Monday immediately preceding the RRC meeting. For this meeting, that would be **Monday, September 18, at 5:00 p.m.** Please be aware, no changes may be made with respect to a staff opinion related to failure to comply with the APA. I did recommend objection to Rules .0201, .0403, and .1501 on that basis, and although I can modify the staff opinion to remove the recommendation for objection as to ambiguity, I cannot do so for failure to comply with the APA.

With respect to the formatting, I reviewed the example for "Permanent Adoption with changes from publication" and Rule 02C .0405, and I see no incongruities. You are correct, remove the underlining generally, underline what has been added, and strike through what has been deleted. No highlighting necessary. Format any other changes you are making in response to my requests for changes/staff opinion in the same way.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Thursday, September 14, 2023 10:10 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Brian:

These rules amendments and adoptions are most certainly interconnected. It is senseless to approve some and not others. I cannot miss my pre-standing meeting to come to the Commission meeting on the 21st to argue any of these points so have no choice to be do everything that you are demanding.

What is my deadline for complying with everything in the attached Objections?

Also, please look at the tab you are referring to regarding the formatting of .1502, .1503 and .1504. I did before trying to comply. The sample (i.e., "21 NCAC 10 .0217) is incongruous with the tab for an adoption without changes above it, does not reflect 26 NCAC 02C .0405(b)(1), or with how an adoption is signified generally. I presume you are wanting all the underlining removed in these three rules, what was added underlined, what was deleted stricken, and then somehow making the numerous changes you requested. Can you please give me an example of exactly how you want it to appear.

Jeff

Jeffrey P. Gray

Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16
Attachments: 14B NCAC 16 .0201 - Amended as published.09.07.23 (00590819xBFA5E).DOCX; 14B NCAC.16 .0205 amended as published.09.07.23 (00590824xBFA5E).DOCX; 14B NCAC 16 .0403 amended as published.09.07.23 (00590827xBFA5E).DOCX; 14B NCAC 16 .0807 amended as published.09.07.23 (00590828xBFA5E).DOCX; 14B NCAC 16 .1101 amended as published.09.07.23 (00590829xBFA5E).DOCX; 14B NCAC 16 .1501 - Adopted as published.09.07.23 (00590830xBFA5E).DOCX; 14B NCAC 16 .1502 - Adopted as published.09.07.23 (00590832xBFA5E).DOCX; 14B NCAC 16 .1503 - Adopted as published.09.07.23 (00590834xBFA5E).DOCX; 14B NCAC 16 .1504 adopted as published.09.07.23 (00590926xBFA5E).DOCX; 14B NCAC 16 .1601 - Adopted as published.09.07.23 (00590927xBFA5E).DOCX; 14B NCAC 16 .1701 - Adopted as published.09.07.23 (00590929xBFA5E).DOCX; 14B NCAC 16 .1702.adopted as published.09.07.23 (00590933xBFA5E).DOCX; 14B NCAC 16 .1703.adopted as published.09.07.23 (00590934xBFA5E).DOCX; 14B NCAC 16 .1704 - Adopted as published.09.07.23 (00590937xBFA5E).DOCX; 14B NCAC 16 .1705 - Adopted as published.09.07.23 (00590939xBFA5E).DOCX; 14B NCAC 16 .1706 - Adopted as published.09.07.23 (00590940xBFA5E).DOCX; 14B NCAC 16 .1707 - Adopted as published.09.07.23 (00590941xBFA5E).DOCX; 14B NCAC 16 .1708 - Adopted as published.09.07.23 (00590942xBFA5E).DOCX

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Brian:

Revised rules attached.

A couple of preliminary matters first before I respond to each Request for Technical Change individually. You state that the changes made due to Public Comment for .1501, .1502 and .1504 were not noted (and also were “substantial.”) It was noted in the Submission for Permanent Rule form that each of these three rules were changed due to Public Comment. Granted, they were not properly formatted to indicate that change, but for .1501 it is not possible to comply with 26 NCAC 02C .0405(b)(1) when it is an adoption and the entire rule is underlined to begin with. Subsection (a)(5) was added. I hopefully now have it formatted correctly. See, my further explanation below. The changes to .1502 are not substantial, either; they were merely a clarification of what was being required by way of referencing existing other requirements. The industry members came up with a more understandable way to word it, and the Board agreed. And as to .1504, it was not substantial either. There are two ways to lawfully engage in Close Personal Protection services: obtain an endorsement on a Private Investigator license that was effective on or before December 1, 2021 OR apply for the license based on experience or based on training. As worded, .1504 could have been interpreted to only apply to someone who is a “licensee” and not a PI with an endorsement. This is not a “substantial” change.

I also have a universal objection to the numerous requests to provide the rule cite that sets forth the contents or substantive requirements of any form. (i.e. G.S. 150B-2(8a)d.) The RRC abandoned this years ago and the policy or practice was that if the form was readily available on an agency’s website where it could be viewed by the public, that would suffice. In many instances the website url. is provided in the body of the rule. I changed every one of this Board, and well as the Alarm Systems Licensing Board’s, rules to conform with this policy, and no one on staff has raised the issue since. Has the RRC formally withdrawn that as a policy or practice?

As to the specific Requests, my responses to each are as below:

14B NCAC 16 .0201

(a), line 4: *See*, my universal objection above. But also, the entirety of this rule sets forth the contents of the application. That is why it is entitled, “Application.”

(a)(1), line 6: The Board does not govern this. The approval is up to the SBI.

(a)(4), lines 15-16: It is two separate fees. This language is the language approved by the RRC when transaction fees and credit card convenience fees were first implemented.

(a)(6), line 21: None of the other requirements have a time limit, why do you think there needs to be a time limit for the credit history? It merely cannot be older than 30 days. Also, everything required must be submitted within 60 days or the application will be deemed incomplete and therefore void pursuant to 14B NCAC 16 .0114.

(b), line 24: *See*, my universal objection above. But also, all the requirements are contained in this rule.

(c), line 28: There is no difference. The technical or correct term is “trainee,” but the industry does not like that word so years ago – long before I represented the Board – “Associate” became the preferred term, as in “Private Investigator Associate.” I always use “trainee” in any legal documents, etc.

(c), line 29: *See*, my universal objection above.

(c), line 35: *See*, my universal objection above.

All other requested changes made.

14B NCAC 16 .0205

(c), line 19: There is no way to define “management position” other than to say, “a person in a position of management.” “Management position” is a universal, known term understood by all.

(d), line 22: If this is the Board’s administrative rule for licensing, is it really necessary to state **who** issues the licensee? (It certainly is not some other agency like the Board of Nursing, or the Well Drillers.)

All other requested changes made.

14B NCAC 16 .0403

(a), line 6, the supervisor must merely be licensed. The proposed supervisor has to submit a plan of supervision and not have more than five supervisees (i.e. trainees or Associates) at any one time. That is all there is to “approval.” And it is all set forth in the rules.

(a), line 7: Once the person becomes a trainee, the trainee can do anything the license can under the licensee’s supervision so the “other” is any task or activity performed that would constitute private investigation, electronic countermeasures or digital forensics.

(c), line 11: *See*, my universal objection above.

(c), line 11: If the person had no proof of experience, such as proof of retirement from say the Secret Service, or proof of military experience by way of a DD-213 form.

(c), line 12: Although this language has been applied to private investigator trainees for 39 years and no one has misunderstood, I've added "by Board staff" to the rule. Requested change made.

(d), line 14: *See*, my universal objection above.

14B NCAC 16 .0807

Question re: (a) & (b): . You have it backwards. The way it is written ONLY armed security guards have to take the unarmed security guard training prior to obtaining a firearms registration permit. Licensees – which are different from registrants – and are namely PIs and CPPs do not have to take the **unarmed** guard training; only the firearms and legal blocks.

(d), line 21: The 80% score is for the course. The sentence states it is the "firearms range qualification course." Nowhere in (d) is the word "test" used.

(d), line 22: The placement of the comma indicates that it is the course that is on file.

(d), line 26-27: This sentence means exactly what it says, "all shots shall be located on the target," as in all shots shall be located on the large piece of paper with a black silhouette of a man on it. It is possible to pass the handgun qualification course and totally miss the paper target one or two times. For the rifle course that is not allowed. All shots must be on the paper.

(e), line 28: "Initial" training is the training in (a), (b), and (c), above, as opposed to recertification.

(j), line 19: Absolutely there are limitations on what firearms may be carried. (That is why .0807 is the longest, most elaborate rule of all of the Board's rules.) G.S. 74C-13(b)(1) states no firearm may be carried that is not approved by the Board; 14B NCAC 16 .0809 sets forth the approved firearms.

(n), line 11: Absolutely there is a limitation. Subsection (e) of this Section states it must be a **certified trainer** and the entirety of Section .0900 of the Board's rules is devoted to firearms trainers.

(s), line 30: "Certificate" is correct. A certificate is proof of completion of the training.

All other requested changes made.

14B NCAC 16 .1101

.1701, below, is essentially a mirror image of this rule. However, you requested numerous technical changes to .1701 that were not requested here. Please note that I have made similar changes to this rule to make it (continue to) mirror .1701 as closely as possible.

(1), line 6: Clarification is unnecessary.

(2), lines 16-18: The Director does not approve the individual or educational course. He just must be notified of it.

(3), lines 23-24: There is no set reporting period. The period is however long it takes to acquire the hours.

(3), line 34: The details are just what the rest of the sentence says: What the one-on-one training consisted of, e.g. "I showed the trainee how to conduct surveillance." "I showed the trainee how to research a person's social media accounts."

All other requested changes made.

14B NCAC 16 .1501

Question regarding change made pursuant to Public Comment: The addition is now properly formatted. As stated above, it was not a substantial change. It was discovered that the first aid requirement was included in the rule for obtaining the license by training but was not in the rule for obtaining the license by experience. The industry pointed this out and requested that this requirement be the same for both.

Requested change made.

14B NCAC 16 .1502

Question regarding change made pursuant to Public Comment: The addition is now properly formatted. As stated above, it was not a substantial change. The industry expressed its opinion that it would be more understandable to reference the existing rules for the specified training rather than using broad terms. This is something that you ask be done all the time. The changes merely accomplished this before you made a formal Request.

Request regarding parenthesis: I did not remove the parenthesis. These parentheticals have a specific meaning to the industry, are used in similar rules throughout this Chapter, and the industry are the ones who wrote the rule. You allowed this for the Temporary rules.

All other requested changes made.

14B NCAC 16 .1503

Line 6: "Provision of services" obviously means provision of close personal protection services since that is what the Section .1500 rules address. And "directly related" means directly related to Close Personal Protection and the rule cites the statute that defines what those services constitute.

14B NCAC 16 .1504

(a), line 5: It is not necessary to add the statute to the rule, however, I have added it to the History Note.

14B NCAC 16 .1601

(a)(1), (3) and (4) and 9B): As stated above regarding a similar rule, the Board needs "proof;" documentary proof (not just "I was a digital forensics examiner before Bill Gates was born.")

Question re: (c)(1) & (2), lines 33 and 35: From the course hours themselves. This language mirrors .0401(c) and the "decoder" or conversion for hours is found in .0204(d).

Other requested change made.

14B NCAC 16 .1701

Question regarding sponsor: No one other than a licensee can be a sponsor so its one and the same here. The PI trainee rule (i.e. .1101) is a mirror image of this one. The regulated industry knows the difference.

(3), line 24: As with .1101, above, there is no set period; its however long it takes to get the hours.

(3), line 31: "Immediate" means right then, whenever the Board staff asks for it. This word is used intentionally to make sure that the checklist is kept current; no going back and filing it in after a request to inspect it is made.

All other requested changes made.

14B NCAC 16 .1702

All requested changes made.

14B NCAC 16 .1703

All requested changes made.

14B NCAC 16 .1704

All requested changes made.

14B NCAC 16 .1705

(a)&(b), lines 5 and 7: Same as answer to .1601, above.

14B NCAC 16 .1706

(a), line 4: "Practical experience" is a known descriptive phrase, in common usage, and does not necessitate defining.

Other requested change made.

14B NCAC 16 .1707

First requested change made. The second requested change is unnecessary.

14B NCAC 16 .1708

Requested change made.

14B NCAC 16 .1709

This rule will be substantially re-written to mirror a new rule, .1109, which was noticed in 37:24 NCR 2229 and will be approved at the Board's October 2023 meeting. **.1709 is hereby being withdrawn.** No requested changes made.

If you have questions, or need something further, I am available tomorrow (Friday) and all next week.

Jeff

Jeffrey P. Gray

Of Counsel

Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500

P.O. Box 1351

Raleigh, NC 27601 (27602)

Telephone: 919-828-0731

Facsimile: 919-828-6592

E-mail: jgray@bdixon.com

1 14B NCAC 16 .0201 is amended as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .0201 APPLICATION FOR LICENSE AND TRAINEE PERMITS**

4 (a) Each applicant for a license or trainee permit shall submit an online application on the website provided by the
5 Board. The online application shall be accompanied by:

- 6 (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State
7 Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that
8 shall be mailed separately to the Board's office;
- 9 (2) one head and shoulders digital photograph of the applicant in JPG, JPEG, or PNG format of
10 sufficient quality for identification, taken within six months prior to online application and
11 submitted by uploading the photograph online with the application submission;
- 12 (3) ~~upload online~~ a statement of the results of a statewide criminal history records search by the
13 reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the
14 applicant has resided within the preceding 60 months;
- 15 (4) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and
16 credit card transaction fee;
- 17 (5) the actual cost charged to the Private Protective Services Board by the State Bureau of
18 Investigation to cover the cost of criminal record checks performed by the State Bureau of
19 Investigation, collected online by the Private Protective Services Board;
- 20 (6) an Equifax credit check run within 30 days of the license application submission date, which will
21 be submitted to the Board's investigator during the application process; and
- 22 (7) five letters attesting to the good character and reputation of the applicant using the online character
23 letter submission process.

24 (b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board
25 and signed by the applicant and his or her prospective supervisor, stating that the trainee applicant shall at all times
26 work with and under the direct supervision of that supervisor and the form shall be uploaded as part of the online
27 application process.

28 (c) Private investigator and digital forensics examination trainees applying for a license shall make available for
29 inspection a log of experience on a form provided by the ~~Board.~~ Board as required by Rule .0403 of this Chapter.

30 (d) Each applicant must upload evidence of high school graduation either by diploma, G.E.D. certificate, or other
31 proof.

32 (e) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the
33 Director, or another Board representative designated by the Director prior to being issued a license. The applicant
34 shall discuss the provisions of G.S. 74C and the administrative rules in this Chapter during the personal meeting. The
35 applicant shall sign a form provided by the Board indicating that he or she has reviewed G.S. 74C and the
36 administrative rules in this Chapter with the Board's representative. During a national or State declared state of

1 emergency that restricts or prohibits travel, the personal meeting requirement may be waived if requested by the
2 applicant in favor of alternative means of communication.

3
4 *History Note: Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1; 74C-12;*
5 *Eff. June 1, 1984;*
6 *Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998; December 1, 1995; July 1, 1987;*
7 *December 1, 1985;*
8 *Transferred and Recodified from 12 NCAC 07D .0201 Eff. July 1, 2015;*
9 *Amended Eff. November 1, 2017;*
10 *Readopted Eff. March 1, 2020;*
11 *Emergency Amendment Eff. May 6, 2020;*
12 *Temporary Amendment Eff. July 24, 2020;*
13 *Temporary Amendment Expired May 14, 2021;*
14 *Amended Eff. January 1, 2022; July 1, 2021;*
15 *Temporary Amendment Eff. April 28, 2023;*
16 *Amended Eff. October 1, 2023.*

1 14B NCAC 16 .0403 is amended as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .0403 TRAINEE PERMIT REQUIREMENTS**

4 (a) In addition to the requirements of Section .0200 of this Chapter, applicants for a trainee permit in private
5 ~~investigation or countermeasures~~ investigation, electronic countermeasures, or digital forensics examination shall be
6 directly supervised by a licensee approved by the Board and that supervisor shall be responsible for the training and
7 ~~investigations~~ other professional activities of the trainee.

8 (b) Trainees who wish to apply for a license must submit an application to the Board in accordance with Rule .0201
9 of this Chapter.

10 (c) Private ~~investigator~~ investigator, electronic countermeasures, or digital forensics examination trainees shall
11 maintain a log on a form provided by the Board on its website as evidence of experience. This log must be available
12 for inspection by Board staff when applying for a license.

13 (d) Any request for renewal of a trainee permit or for issuance of a license shall be accompanied by an evaluation
14 report of the trainee's performance on a form provided by the Board on its website and submitted by the trainee's
15 supervisor.

16
17 *History Note: Authority G.S. 74C-2; 74C-5;*

18 *Eff. June 1, 1984;*

19 *Amended Eff. December 1, 1985;*

20 *Transferred and Recodified from 12 NCAC 07D .0403 Eff. July 1, 2015;*

21 *Readopted Eff. August 1, 2020;*

22 *Temporary Amendment Eff. April 28, 2023;*

23 *Amended Eff. October 1, 2023.*

1 14B NCAC 16 .0807 is amended as published in 37:18 NCR 1883 as follows:

2
3 **14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED LICENSEES AND REGISTRANTS**

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~~ investigator, close personal protection, or any other **licensee licensees** applying for an armed
7 ~~security guard firearm registration~~ permit shall first complete a ~~five-hour~~ training course consisting of the courses set
8 forth in Rule .0707(a)(1) and (2) of this Chapter and all 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 either an armed licensee permit or an armed security guard firearm registration permit shall attain
21 a score of at least 80 percent accuracy on a firearms range qualification course established by the Board and the
22 Secretary of Public Safety, a copy of which is on file in the Director's office, once in three consecutive attempts.
23 Should a student fail to attain a score of 80 percent accuracy, the student **may shall** be given a second opportunity to
24 qualify once in three consecutive attempts on the course of fire the student did not pass. Failure to qualify after the
25 second series of attempts shall require the student to repeat the entire basic training course for armed security guards.
26 All attempts must take place within 20 days of the completion of the initial 20 hour course. For rifle qualification all
27 shots shall be located on the target.

28 (e) All initial ~~armed security guard~~ training required by this **Chapter Section** shall be administered by a certified
29 trainer and shall be completed no more than 90 days prior to the date of ~~issuance of~~ application for the licensee permit
30 or armed security guard firearm registration permit.

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

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

1 (h) Applicants for re-certification of a armed licensee permit or an armed security guard firearm registration permit
2 shall complete ~~a~~ the basic recertification training course for armed security guards that consists of at least four hours
3 of classroom instruction and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this
4 Rule. ~~Subparagraphs Subparagraph~~ (c)(2), operation under subparagraph (c)(3), and subparagraphs (c)(4) and (5) of
5 this Rule shall be reviewed prior to range ~~firing firing; and however~~ maintenance under Subparagraph (c)(3) may be
6 reviewed after range firing. The recertification course is valid for 180 days after completion of the course. Applicants
7 for recertification of a licensee permit or an armed security guard firearm registration permit shall also complete the
8 requirements of Paragraph (d) of this Rule.

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

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

- 22 (1) legal limitations on the use of shotgun (minimum of one hour);
- 23 (2) shotgun safety, including range firing procedures (minimum of one hour);
- 24 (3) shotgun operation and maintenance (minimum of one hour);
- 25 (4) shotgun fundamentals (minimum of two hours); and
- 26 (5) night firing (minimum of one hour).

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

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

34 (l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth
35 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 Subsection (c) of 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 established 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 a [armed] licensee permit or an armed security guard firearm registration permit who possesses a current firearms trainer certificate shall be given a firearms licensee permit or registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d) of this Rule.

(r) An armed licensee or 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 licensee or security guard fails to qualify on any course of fire, [the] licensee or [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 licensee or security guard [verbally] 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 [in writing] on the next business day.

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

1 *History Note:* *Authority G.S. 74C-5; 74C-9; 74C-13;*
2 *Eff. June 1, 1984;*
3 *Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987;*
4 *Temporary Amendment Eff. January 14, 2002;*
5 *Amended Eff. October 1, 2013; October 1, 2010; June 1, 2009; February 1, 2006; August 1, 2002;*
6 *Transferred and Recodified from 12 NCAC 07D .0807 Eff. July 1, 2015;*
7 *Amended Eff. January 1, 2018; February 1, 2016; October 1, 2015;*
8 *Readopted Eff. November 1, 2019;*
9 *Amended Eff. January 1, 2023; February 1, 2022;*
10 *Temporary Amendment Eff. April 28, 2023;*
11 *Amended Eff. October 1, 2023.*

1 14B NCAC 16 .1101 is amended as published in 37:19 NCR 1940 as follows:

2
3 **14B NCAC 16 .1101 DEFINITIONS**

4 In addition to the definitions set forth in G.S. 74C, the following definitions shall apply to this Section:

- 5 (1) "Private Investigator Associate" refers to an individual training to become a Private Investigator. A
6 Private Investigator Associate may also be referred to as a "trainee" in these Rules. A Private
7 Investigator Associate must complete three training levels as set out in this Section.
- 8 (2) "One-on-one Supervision" means person-to-person contact whereby the licensed investigator is
9 personally and directly supervising or training the Associate. The training investigator must be the
10 sponsoring licensed Private Investigator or any licensed Private Investigator who is a member of the
11 sponsoring Private Investigator's firm, association, or corporation. The Private Investigator
12 Associate may not subcontract his or her employment to another Private Investigator. However, the
13 sponsoring Private Investigator may subcontract the Private Investigator Associate if the sponsor
14 obtains prior written approval from the Board's Director by showing that the Private Investigator
15 Associate will receive an educational benefit from the subcontract employment and the Associate
16 will receive one-on-one supervision from another licensed Private Investigator. One-on-one
17 supervision may also be satisfied if the Associate undergoes training from an individual or
18 educational course approved by the Board's Director prior to the Associate receiving the training.
- 19 (3) "Training Checklist" ~~refers to means~~ the ~~document(s) documents~~ that shall state all areas of
20 training and work that the Associate has performed. The ~~supervising sponsoring~~ Private
21 Investigator is responsible for maintaining the training checklist and providing a copy of the
22 checklist to the Associate. The Training Checklist must reflect the date the Associate advances from
23 one level to another. The training checklist must be signed by the Associate and the sponsoring
24 Private Investigator at the end of each reporting period. In the event the Associate transfers
25 employment to another Private Investigator, the Associate must provide the new ~~supervising~~
26 ~~sponsoring~~ Private Investigator with the training checklist and the new sponsoring Private
27 Investigator will then be responsible for the maintenance of the checklist. The Training Checklist
28 must be updated on a quarterly basis for Level One Associates and on a yearly basis for Level Two
29 and Level Three Associates. The training checklist must be maintained pursuant to Rule .0108 of
30 this Chapter. When an Associate completes Level Three, the Training Checklist must be made a
31 part of the Associate's application for a Private Investigator's license. The Board shall have
32 immediate access to the training ~~checklist. checklist upon request.~~
- 33 (4) "Associate Log" ~~refers to means~~ the ~~document(s) documents~~ maintained by the ~~sponsoring~~
34 ~~Private Investigator Associate~~ which shall list each case the Associate has worked, the number of
35 hours spent on the case, and the type of work performed. Details of the one-on-one training must be
36 documented within the Associate's log.

1 *History Note:* *Authority G.S. 74C-2(c); 74C-5(2);*
2 *Eff. July 1, 1994;*
3 *Transferred and Recodified from 12 NCAC 07D .1101 Eff. July 1, 2015;*
4 *Readopted Eff. July 1, 2020;*
5 *Amended Eff. October 1, 2023.*

1 14B NCAC 16 .1501 is adopted as published in 37:18 NCR 1883 as follows:

2
3 **SECTION .1500 - CLOSE PERSONAL PROTECTION**

4
5 **14B NCAC 16 .1501 EXPERIENCE REQUIREMENTS FOR A CLOSE PERSONAL PROTECTION**
6 **LICENSE**

7 (a) In addition to the requirements of G.S. 74C-8 and Section .0200 of this Chapter, applicants for a close personal
8 protection license shall:

- 9 (1) establish to the Board's satisfaction three years of verifiable experience while conducting close
10 personal protection services as set forth in G.S. 74C-3(a)(3a) with a private person, firm, association,
11 or corporation within the last 10 years;
12 (2) establish to the Board's satisfaction three years of verifiable experience while conducting close
13 personal protection services as set forth in G.S. 74C-3(a)(3a) with any federal, state, county or
14 municipal law enforcement agency, or other governmental agency within the last 10 years;
15 (3) establish to the Board's satisfaction a military occupational specialty and two years of verifiable
16 experience within the past five years in the U.S. Armed Forces while conducting close personal
17 protection services as set forth in G.S. 74C-3(a)(3a) while serving in an official capacity; or
18 (4) have completed a course in close personal protection approved by the Board given by a school
19 specializing in close personal protection (or "executive protection") that consists of a minimum of
20 40 hours of actual classroom and practical instruction within the last 2 years; and years as required
21 by Rule .1502 of this Chapter.]
22 (5) possess a basic first aid certificate from the American Red Cross and a valid CPR and AED
23 certification from the American Red Cross, American Heart Association, American Safety and
24 Health Institute, or National Safety Council.

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

- 27 (1) the spouse holds a current license, certification, or registration from another jurisdiction and the
28 other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements;
29 and
30 (2) the spouse has two years verifiable experience within the past five years while conducting close
31 personal protection as set forth in in G.S. 74C-3(a)(3a) while serving in an official capacity with
32 any entity described in Paragraph (a) of this rule.

33
34 *History Note: Authority G.S. 74C-5(2); 93B-15.1;*
35 *Temporary Adoption Eff. April 28, 2023;*
36 *Eff. October 1, 2023.*

1 14B NCAC 16 .1502 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1502 TRAINING REQUIREMENTS FOR CLOSE PERSONAL PROTECTION**
4 **LICENSE**

5 (a) Applicants for a close personal protection license who do not have the experience set forth in Rule .1501(a)(1)
6 through (3) or (b)(1) and (2) shall complete a basic close personal protection (or “executive protection”) training
7 course approved by the Board within the previous 24 months. The course shall consist of a minimum of 40 hours of
8 classroom and practical instruction [~~including:~~ **including as a minimum:**]

9 (1) Fundamentals of personal protection, including **[as a minimum]** mission planning, performing site
10 surveys, route selection (primary, secondary, etc.), medical evacuation, walking formations (single,
11 multiple, etc.), communications with protectees, and transitional movements (arrivals, departures,
12 plan changes, hasty movements, etc.) – (minimum of 26 hours);

13 (2) Practical exercises – (minimum of 12 hours); and

14 (3) Legal Issues, including the Rules **[applicable to each of the below blocks of instruction and this**
15 **Section set forth in 14B NCAC 16 .1500]** and North Carolina’s laws on use of force, and the federal
16 and state firearms law. The 3 hour unarmed guard block of instruction, **[set forth in 14B NCAC 16**
17 **.0707]** if performing services unarmed, or the 4 hour armed guard block of instruction **[set forth in**
18 **14B NCAC 16 .0807(c)(1) if performing services armed]** taught by a certified instructor, or an
19 equivalent block of instruction, shall fulfill this requirement – (minimum of 2 hours).

20 (b) In addition to the minimum classroom and practical instruction required by subsection (a) of this Rule, the
21 applicant must possess a basic first aid certificate from the American Red Cross and a valid CPR and AED certification
22 from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety
23 Council.

24 (c) Subsection (a)(3) of this Rule may be conducted remotely as provided for by 14B NCAC 16 .0707(c).

25
26 *History Note: Authority G.S. 74C-5;*
27 *Temporary Adoption Eff. April 28, 2023;*
28 *Eff. October 1, 2023.*

1 14B NCAC 16 .1503 is adopted as published in 37:18 NCR 1883 as follows:

2
3 **14B NCAC 16 .1503 INVESTIGATIONS DIRECTLY RELATED TO PROVISION OF SERVICES**

4 A close personal protection licensee may engage in activities otherwise defined by G.S. 74C-3(a)(8) as an investigation
5 which are directly related to the provision of services including but not limited to advance planning, intelligence, and
6 risk assessment.

7
8 *History Note: Authority G.S. 74C-5;*

9 *Temporary Adoption Eff. April 28, 2023;*

10 *Eff. October 1, 2023.*

1 14B NCAC 16 .1504 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1504 DISTINGUISHING SECURITY SERVICES**

4 (a) Prior to providing any service to a client, a close personal protection licensee or licensed private investigator with
5 a close personal protection endorsement shall enter into a written contract or agreement that lists by name the
6 individual person or persons for whom service is to be provided, the specific function that constitutes the service, and
7 the duration of the service.

8 (b) A close personal protection license or close personal protection endorsement does not entitle the licensee to
9 provide services defined by G.S. 74C-3(a)(6) to any person or persons not listed in the contract or agreement.

10
11 *History Note: Authority G.S. 74C-5; **74C-3(c)***
12 *Temporary Adoption Eff. April 28, 2023;*
13 *Eff. October 1, 2023.*

1 14B NCAC 16 .1601 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **SECTION .1600 – DIGITAL FORENSICS EXAMINER**

4
5 **14B NCAC 16 .1601 EXPERIENCE REQUIREMENTS FOR A DIGITAL FORENSICS EXAMINER**
6 **LICENSE**

7 (a) In addition to the requirements of Section .0200 of this Chapter, applicants for a Digital Forensic Examiner
8 (D.F.E.) license shall:

- 9 (1) establish to the Board's satisfaction three years of verifiable experience within the past five years
10 conducting digital forensic examinations as defined by G.S. 74C-3(a)(5a) individually, or with any
11 private company or federal, state, county or municipal agency;
12 (2) hold a North Carolina private investigator license, or private investigator license from a state
13 reciprocal with North Carolina, [and] have completed a course of instruction consisting of not less
14 than 40 hours of live classroom and practical instruction in digital [forensics forensics,] and obtained
15 certification from a certifying entity approved by the Board within the previous two years;
16 (3) establish to the Board's satisfaction that the applicant has been qualified as an expert witness in an
17 area of digital forensics in a court of law using the standard set forth by the United States Supreme
18 Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny cases,
19 within the previous three years; or
20 (4) establish to the Board's satisfaction a military occupational specialty and two years of verifiable
21 experience conducting digital forensics examinations within the past five years in the U.S. Armed
22 Forces.

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

- 25 (1) the spouse holds a current license, certification, or registration from another jurisdiction and the
26 other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements;
27 and
28 (2) the spouse has two years of verifiable experience conducting digital forensics examinations within
29 the past five years.

30 (c) [Using the formula in Rule .0204(d) of this Chapter, the The] Board shall give credit toward the experience
31 requirements set forth in Paragraphs (a) and (b) of this Rule as follows:

- 32 (1) An applicant shall receive 400 hours of experience credit for an associate's degree. The Board shall
33 grant up to 100 additional hours if the applicant can demonstrate that further training or course-work
34 related to digital forensics examination was received while obtaining the associate's degree.
35 (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall
36 grant up to 200 additional hours if the applicant can demonstrate that further training or course-work
37 related to digital forensics examination was received while obtaining the bachelor's degree.

1 (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall
2 grant an additional 300 additional hours if the applicant can demonstrate that further training or
3 course-work related to digital forensics examination was received while obtaining the graduate
4 degree.

5
6 *History Note:* *Authority G.S. 74C-5; 93B-15.1;*
7 *Temporary Adoption Eff. April 28, 2023;*
8 *Eff. October 1, 2023.*

1 14B NCAC 16 .1701 is adopted as published in 37:18 NCR 1883 as follows:

2
3 **SECTION .1700 – TRAINING AND SUPERVISION FOR DIGITAL FORENSICS**
4 **EXAMINER (D.F.E.) ASSOCIATES**
5

6 **14B NCAC 16 .1701 DEFINITIONS**

7 In addition to the definitions set forth in G.S. 74C, the following definitions shall apply to this Section:

- 8 (1) "Digital Forensics Examiner Associate" [refers to means] an individual training to become a digital
9 forensics examiner licensee. A Digital Forensics Examiner Associate may also be referred to as a
10 "trainee" in these Rules. A Digital Forensics Examiner Associate must complete three training levels
11 as set out in this Section.
- 12 (2) "One-on-one Supervision" means person-to-person contact whereby the licensee is personally and
13 directly supervising or training the Associate. The training licensee must be the sponsoring digital
14 forensics examiner licensee. The Digital Forensics Examiner Associate may not subcontract his or
15 her employment to another licensee. However, the sponsoring digital forensics examiner licensee
16 may subcontract the Digital Forensics Examiner Associate if the sponsor obtains prior written
17 approval from the Board's Director by showing that the Digital Forensics Examiner Associate will
18 receive an educational benefit from the subcontract employment and the Associate will receive one-
19 on-one supervision from another licensee.
- 20 (3) "Training Checklist" [refers to means] the [document(s) documents] that shall state all areas of
21 training and work that the Associate has performed. The [supervising licensee sponsor] is
22 responsible for maintaining the training checklist and providing a copy of the checklist to the
23 Associate. The Training Checklist must reflect the date the Associate advances from one level to
24 another. The training checklist must be signed by the Associate and the [sponsoring licensee
25 sponsor] at the end of each reporting period. In the event the Associate transfers employment to
26 another licensee, the Associate must provide the new [supervising licensee sponsor] with the
27 training checklist and the new [sponsoring licensee sponsor] will then be responsible for the
28 maintenance of the checklist. The Training Checklist must be updated on a quarterly basis for Level
29 One Associates and on a yearly basis for Level Two and Level Three Associates. The training
30 checklist must be maintained pursuant to Rule .0108 of this Chapter. When an Associate completes
31 Level Three, the Training Checklist must be made a part of the Associate's application for a digital
32 forensics examiner license. The Board shall have immediate access to the training [checklist
33 checklist upon request.]
- 34 (4) "Associate Log" [refers to means] the [document(s) documents] maintained by the Associate which
35 shall list each case the Associate has worked, the number of hours spent on the case, and the type of
36 work performed. Details of the one-on-one training must be documented within the Associate's log.
37

1 *History Note:* *Authority G.S. 74C-2(c); 74C-5(2);*
2 *Temporary Adoption Eff. April 28, 2023;*
3 *Eff. October 1, 2023.*

1 14B NCAC 16 .1702 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1702 TRAINING AND SUPERVISION REQUIRED IN LEVEL ONE**

4 (a) If upon sponsorship, the Associate has less than one year or 1,000 hours of verifiable training or experience, the
5 Associate shall [be classified as a Level One Associate and shall] undergo 160 hours of one-on-one supervision
6 training.

7 (b) The first 40 hours of employment shall be one-on-one supervision. The remaining 120 hours of one-on-one
8 supervision shall be gathered over the first year of employment or the first 1,000 hours of work, whichever comes
9 first.

10 (c) A Level One Associate cannot, independently of the sponsor, accept or contract employment. The Associate shall
11 have direct face-to-face, [telephone telephone,] or virtual contact with the sponsor before accepting employment or
12 before accepting a new case.

13 (d) The sponsor shall meet with the Level One Associate to review the Associate's activities. The [sponsor licensee's
14 sponsor's] review may be by telephone, virtually, or face-to-face and shall occur at least four times per month. The
15 [licensee sponsor] shall review each assignment the Associate is working or has worked since the last review. Review
16 sessions may encompass more than one assignment.

17
18 *History Note: Authority G.S. 74C-5(2);*
19 *Temporary Adoption Eff. April 28, 2023;*
20 *Eff. October 1, 2023.*

1 14B NCAC 16 .1703 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1703 TRAINING AND SUPERVISION REQUIRED IN LEVEL TWO**

4 (a) If upon initial application for an Associate permit, the applicant has at least one year or 1,000 hours of verifiable
5 training or experience, the applicant will skip Level One and be classified as a Level Two Digital Forensics Examiner
6 Associate. An applicant that skips Level One shall undergo 80 hours of one-on-one training. The first 40 hours of one-
7 on-one supervision shall [be one-on-one training and shall] occur within the first 40 hours of employment. The
8 remaining 40 hours shall be gathered over the first year of employment or the first 1,000 hours of work, whichever
9 comes first.

10 (b) A Level Two Associate cannot, independently of the sponsor, accept or contract employment. The Associate shall
11 have direct face-to-face, virtual, or telephone contact with the sponsor.

12 (c) The sponsor shall meet with the Level Two Associate to review the Associate's work product. The [licensee's
13 sponsor's] review may be by telephone, virtually, or face-to-face and shall occur at least four times per month. The
14 [licensee sponsor] shall review each assignment the Associate is working or has worked since the last review. Review
15 sessions may encompass more than one assignment.

16
17 *History Note: Authority G.S. 74C-5(2);*
18 *Temporary Adoption Eff. April 28, 2023;*
19 *Eff. October 1, 2023.*

1 14B NCAC 16 .1704 is adopted as published in 37:18 NCR 1883 as follows:

2
3 **14B NCAC 16 .1704 TRAINING AND SUPERVISION REQUIRED IN LEVEL THREE**

4 (a) If upon sponsorship the Associate has at least two years or 2,000 hours of verifiable training or experience, the
5 Associate will be classified as a Level Three Associate and shall undergo 40 hours of one-on-one training.

6 (b) The first 40 hours of employment for the Level Three Digital Forensics Examiner Associate shall be one-on-one
7 supervision.

8 (c) When the Level Three Associate completes the requirements of Level Three by fulfilling the licensing
9 requirements set forth in Rules .0204 and .0401 of this Chapter, the Associate may apply for [a] digital forensics
10 examiner license.

11 (d) The sponsor shall meet with the Level Three Associate to review the Associate's [activities. activities once each
12 month.] The sponsor licensee shall review each assignment the Associate is working or has worked since the last
13 review. Review sessions may encompass more than one assignment.

14 (e) The [sponsoring licensee sponsor] shall [have contact with the Level Three Associate sufficient to ensure ensure
15 the Level Three Associate remains in] compliance with G.S. Chapter 74C.

16
17 *History Note: Authority G.S. 74C-5(2);*
18 *Temporary Adoption Eff. April 28, 2023;*
19 *Eff. October 1, 2023.*

1 14B NCAC 16 .1705 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1705 EDUCATIONAL DEGREES AND NON-DEGREED TRAINING**

4 [Using the formula in Rule .0204 of this Chapter, the Board shall give credit toward the educational and training
5 requirements of this Section as follows:

6 (1) An applicant shall receive a minimum of 400 hours of experience credit for an associate's degree.
7 The Board shall grant up to 100 additional hours if the applicant can demonstrate that further training
8 or course-work related to digital forensics examination was received while obtaining the associate's
9 degree.

10 (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall
11 grant up to 200 additional hours if the applicant can demonstrate that further training or course-work
12 related to digital forensics examination was received while obtaining the bachelor's degree.

13 (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall
14 grant an additional 300 additional hours if the applicant can demonstrate that further training or
15 course-work related to digital forensics examination was received while obtaining the graduate
16 degree.]

17 ~~(a) An applicant shall receive a minimum of 400 hours of experience credit for an associate's degree. The Board shall~~
18 ~~grant up to 100 additional hours if the applicant can demonstrate that further training or course-work related to digital~~
19 ~~forensics examination was received while obtaining the associate's degree.~~

20 ~~(b) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall grant up to 200~~
21 ~~additional hours if the applicant can demonstrate that further training or course-work related to digital forensics~~
22 ~~examination was received while obtaining the bachelor's degree.~~

23 ~~(c) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall grant an~~
24 ~~additional 300 additional hours if the applicant can demonstrate that further training or course-work related to digital~~
25 ~~forensics examination was received while obtaining the graduate degree.~~

26
27 *History Note: Authority G.S. 74C-5(2);*
28 *Temporary Adoption Eff. April 28, 2023;*
29 *Eff. October 1, 2023.*

1 14B NCAC 16 .1706 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1706 CONSIDERATION OF EXPERIENCE**

4 (a) The Board shall consider any practical experience gained [by the applicant] prior to the application date. The
5 Board shall not consider experience claimed by the applicant if the experience was gained after December 1, 2022:

6 (1) by contracting private protective services to another person, firm, association, or corporation while
7 not in possession of a valid private protective services license; or

8 (2) when employed by a company contracting private protective services to another person, firm,
9 association, or corporation while the company is not in possession of a valid private protective
10 services license.

11 (b) The Board shall consider any educational experience referred to in Rule .1705 of this Section.

12
13 *History Note:* *Authority G.S. 74C-5(2);*
14 *Temporary Adoption Eff. April 28, 2023;*
15 *Eff. August 1, 2023.*

1 14B NCAC 16 .1707 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1707 ENFORCEMENT**

4 A violation by the Associate may be deemed by the Board to be a violation [ef by] the sponsor if the violation is found
5 to be the result of insufficient supervision and may subject the sponsor to any enforcement actions pursuant to G.S.
6 74C-17.

7
8 *History Note: Authority G.S. 74C-2(c); 74C-5(2); 74C-12;*

9 *Temporary Adoption Eff. April 28, 2023;*

10 *Eff. August 1, 2023.*

1 14B NCAC 16 .1708 is adopted as published in 37:18 NCR 1883 with changes as follows:

2
3 **14B NCAC 16 .1708 TRANSFERABILITY OF TRAINING HOURS**

4 If a Level One Associate transfers employment to another digital forensics examiner licensee, the one-on-one training
5 shall not transfer and the Associate shall undergo new one-on-one supervised training hours with the new [sponsoring
6 licensee- sponsor.] If a Level Two or Level Three Associate transfers employment to another licensee, all training
7 hours shall be transferred.

8
9 *History Note: Authority G.S. 74C-5(2);*
10 *Temporary Adoption Eff. April 28, 2023;*
11 *Eff. October 1, 2023.*

1 14B NCAC 16 .0205 is amended as published in 37:19 NCR 1940 as follows:

2
3 **14B NCAC 16 .0205 COMPANY BUSINESS LICENSE**

4 (a) Any firm, association, or corporation required to be licensed pursuant to G.S. 74C-2(a) shall upload on the Board's
5 website an application for a company business license on a form provided by the Board. Only a sole proprietorship
6 that is owned and operated by an individual licensee shall be exempt from this Rule. This application for license shall
7 require [such information as] the firm, association, or corporation name; the address of its principal office within the
8 State; any past conviction for criminal offenses of any company director, or officer; information concerning the past
9 revocation, suspension, or denial of a business or professional license to any director or officer; a list of all directors
10 and officers of the firm, association, or corporation; a list of all persons, firms, associations, corporations or other
11 entities owning 10 percent or more of the outstanding shares of any class of stock; and the name and address of the
12 qualifying agent.

13 (b) In addition to the items required in Paragraph (a) of this Rule, an out-of-state corporation shall file with its
14 application for a license, a copy of its certificate of authority to transact business in this State issued by the North
15 Carolina Secretary of State in accordance with G.S. 55-15-01. The corporation shall also file a consent to service of
16 process and pleadings that shall be authenticated by its corporate seal and accompanied by a duly certified copy of the
17 resolution of the board of directors authorizing the proper officer or officers to execute the consent.

18 (c) After filing a completed application with the Board, the Board shall conduct a background investigation to
19 determine if the qualifying agent is in a management position. The Board shall also determine if the directors or
20 officers have the requisite good moral character as defined in G.S. 74C-8(d)(2). For purposes of this Rule, "conviction"
21 means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury.

22 (d) Upon satisfactory completion of the background investigation, a company business license shall be issued. This
23 license shall be conspicuously displayed at the [principle principal] place of business within North Carolina.

24 (e) The company business license shall be issued only to the business entity and shall not be construed to extend to
25 the licensing of its officers and employees.

26 (f) The issuance of the company business license is issued to the firm, association, or corporation in addition to the
27 license issued to the qualifying agent. The qualifying agent for the firm, association, or corporation which has been
28 issued the company business license shall be responsible for assuring compliance with G.S. 74C.

29 (g) Dissolution or administrative suspension of corporate status shall result in suspension of the company business
30 license by operation of law and may result in disciplinary action for unlicensed [activity; if it is determined that the
31 suspension was due to intentional disregard of the law or inaction.]

32
33 *History Note: Authority G.S. 74C-2(a); 74C-5;*

34 *Eff. April 1, 1993;*

35 *Amended Eff. February 1, 1995;*

36 *Transferred and Recodified from 12 NCAC 07D .0205 Eff. July 1, 2015;*

37 *Readopted Eff. March 1, 2020;*

Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Friday, August 18, 2023 5:21 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Brian:

RECEIVED. And thank you. These are my priority for next week so I should easily meet the Sept. 7 deadline.

Jeff

Jeffrey P. Gray

Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, August 18, 2023 11:18 AM
To: Gray, Jeffrey <JGray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

Attached, please find a letter concerning the extension granted by the Commission at yesterday's meeting.

Please let me know if you have any questions or concerns.

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948

brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Thursday, August 10, 2023 4:05 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Thank you.

I will try to get the changes and responses to questions to you as quickly as possible.

Jeffrey P. Gray

Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

Burgos, Alexander N

From: Liebman, Brian R
Sent: Thursday, August 10, 2023 9:52 AM
To: Gray, Jeffrey
Cc: Burgos, Alexander N
Subject: RE: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

Jeff,

I will recommend to the Commission that they approve your requested extension.

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Gray, Jeffrey <JGray@bdixon.com>
Sent: Wednesday, August 9, 2023 7:32 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] RE: August 2023 RRC Request for Changes - 14B NCAC 16

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Brian:

In follow-up to the below, I have resolved my question about .1101. It was never a "Temporary" rules amendment. I have just now realized that you have combined the Permanent rules submitted on July 5th (the ones identical to the Temporary rules) with separate Permanent rules submitted on July 3rd (14B NCAC 16 .0205 & .1101.) I didn't know that could be done...

Disregard my comment below regarding the Request for Change to .1101; this was never a Temporary rule.. However, I will still need these extended.

Jeff

Jeffrey P. Gray
Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351

Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

From: Gray, Jeffrey
Sent: Wednesday, August 9, 2023 7:07 PM
To: 'Liebman, Brian R' <brian.liebman@oah.nc.gov>
Subject: RE: August 2023 RRC Request for Changes - 14B NCAC 16

Brian:

Without question I am going to need an extension of time. Except for changes made due to Public Comment (which was clearly noted on the Submission form) these rule adoption and amendments are identical to the Temporary rules submitted by the agency and reviewed by you in March 2023. However, there are far more Request for Change this time around for the Permanent rules. For instance, for the Temporary rule amendments in .0807 you had six requested changes, some of which you appear to have accepted my then-explanation and not made a second request, albeit now there are over a dozen more requests for changes to this same rule. Similarly, there were no Request for Change for .1101 as Temporary rule amendments, but now there are eight.

Seeing that I was given only three and a half days to accomplish this, it is not possible to reconcile everything you have asked, answer your numerous additional questions, and properly make the changes. I hereby request that the period of review be extended.

Having submitted the Permanent rule amendments and adoptions to the Commission, pursuant to G.S. 150B-21.1(d) the agency's Temporary rules remain effective.

Jeff

Jeffrey P. Gray
Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

From: Gray, Jeffrey
Sent: Wednesday, August 9, 2023 5:50 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: RE: August 2023 RRC Request for Changes - 14B NCAC 16

Brian:

RECEIVED.

Hopefully I will not need to request an extension.

Jeff

Jeffrey P. Gray

Of Counsel
Bailey & Dixon, LLP
434 Fayetteville Street, Suite 2500
P.O. Box 1351
Raleigh, NC 27601 (27602)
Telephone: 919-828-0731
Facsimile: 919-828-6592
E-mail: jgray@bdixon.com

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, August 8, 2023 12:01 PM
To: Gray, Jeffrey <JGray@bdixon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: August 2023 RRC Request for Changes - 14B NCAC 16

Good morning,

I'm the attorney who reviewed the Rules submitted by the Board for the August 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, August 17, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, August 11, 2023. Given the proximity to the deadline, I will naturally recommend approval of any request for extension that you may elect to make.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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