



North Carolina Department of Public Safety

Private Protective Services Board

Roy Cooper, Governor
Erik Hooks, Secretary

Pamela Cashwell, Chief Deputy Secretary
Brian Jones, Director

**MINUTES OF THE
TELEPHONE CONFERENCE FOR
PRIVATE PROTECTIVE SERVICES BOARD MEETING
APRIL 23, 2020
3101 INDUSTRIAL DRIVE SUITE 104
RALEIGH, NC 27609**

BOARD MEMBERS PRESENT

David Arndt
Ron Burris
John Aldridge
Nada Lawrimore
David Stephens
Gerry Stickl
Samuel Russell
Debra Duncan
Steve Johnson
Tamara Rabenold
Stacy Buff
Kim Heffney
Bud Cesena
Jerry Pitman

BOARD MEMBERS ABSENT

STAFF PRESENT

Brian Jones - Director
Paul Sherwin – Deputy Director
Jeff Gray – Attorney
Kim Odom – Field Services Supervisor
Garcia Graham – PPS Board Secretary

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CALL TO ORDER

Chairman Arndt called the April 23, 2020 telephone conference meeting of the Private Protective Services Board to order at 9:08 a.m.

STATE ETHICS LAW

Attorney Jeff Gray explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

MINUTES

APPROVAL OF THE FEBRUARY BOARD MEETING MINUTES.

MOTION BY MR. BUFF TO ACCEPT THE FEBRUARY 13, 2020 MINUTES; SECONDED BY MS. RABENOLD; MOTION CARRIED.

SCREENING COMMITTEE REPORT

Mr. Buff stated that the Screening Committee convened via telephone conference on Thursday, April 23, 2020 from 8:00a.m. to 8:27a.m. to review a total of 61 applications. This was a closed meeting. The Committee members included Mr. Buff, Mr. Stephens, Mr. Heffney, Mr. Russell, Ms. Lawrimore and Ms. Duncan. Mr. Buff read the report for the record.

MOTION BY MR. ALDRIDGE TO ACCEPT THE SCREENING REPORT WITH THE EXCEPTION OF #51 GERALD STICKL AND #55 ANN CAROLINE TODD; SECONDED BY MR. STEPHENS; MOTION CARRIED.

MOTION BY MR. CESENA TO ACCEPT #51 GERALD JOHN STICKL; SECONDED BY MR. JOHNSON; MOTION CARRIED.

Mr. Stickl recused himself from #51 of the screening report.

MOTION BY MR. ALDRIDGE TO ACCEPT #55, ANN CAROLINE TODD; SECONDED BY MR. HEFFNEY; MOTION CARRIED.

Ms. Duncan recused herself from #55 of the screening report.

OLD BUSINESS:

None

NEW BUSINESS:

Mr. Gray presented a Memorandum to the Board, regarding five proposed emergency rules related to the impacts of COVID-19 for adoption by the Board to accommodate licensees, registrants and certificate holders during the pendency of the various Executive Orders and other actions imposed in response to the current pandemic.

Rule 14B NCAC 16 .0201(e) allowing for the applicant meeting to be conducted by alternate means.

Rule 14B NCAC 16 .0806(e) to extend the armed security guard requalification deadline to 60 days beyond the end of the declared state of emergency.

Rule 14B NCAC 16 .0904 to extend the firearms instructor requalification deadline to 60 days beyond the end of the declared state of emergency.

Rules 14B NCAC 16 .1202(b) & (e) and amended 14B NCAC 16 .1203 to allow all 12 required continuing education hours to be taken on-line.

MOTION BY MR. CESENA TO ADOPT THE FIVE PROPOSED EMERGENCY RULE ADMENDMENTS; SECONDED BY MR. STICKL; MOTION CARRIED.

DIRECTOR'S REPORT:

Director Jones read the report for the record. He reported the Board's revenue as of March 31, 2020 was \$1,091,696.22 with expenditures in the amount of \$1,040,271.67, reflecting an increase to the fund balance of \$51,424.55. The total fund balance was \$1,216,375.20. He reported the Education Fund balance was \$111,820.92. Director Jones reported that since the last Board meeting, PPS had received 5,703 registration applications, 152 applications for licensure and 67 certifications, which brought the active numbers for registration to 20,560, license holders to 2,489 and certification holders 550. Staff printed 3,931 cards since the last meeting.

Director Jones informed the Board that due to COVID-19, Private Protective Services has transitioned to a staggered schedule for staff. The office is currently opened on Mondays, Wednesdays, and Fridays. Utilizing a structured roster, staff members work at the office no more than one day per week. For the remainder of the week, employees may work from home or use leave. There will never be less than two employees at the office during the day. Those assigned to the office for the day will be responsible for sorting mail, receiving packages, assisting visitors, printing registration cards, processing fingerprint results, and other tasks that cannot be completed by those working from home. Employees will utilize the Cisco Jabber application to continue to respond to incoming telephone calls while away from the office.

Director Jones reported that as of April 20, 2020, employees had processed armed guard applications submitted through April 10, 2020 and unarmed guard applications submitted through April 1, 2020

Director Jones stated that Permittum representatives met with PPS employees via telephone on April 2nd to discuss support items and pending development initiatives.

Director Jones announced that the Private Protective Services Board will accept grant applications from February 14, 2019 until 5:00 p.m. on April 26, 2019. The guidelines and application can be located on the PPS website. DPS will announce the grant application solicitation on its social media platforms

MOTION BY MS. DUNCAN TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. ALDRIDGE; MOTION CARRIED.

ATTORNEY'S REPORT

Attorney Gray discussed the following:

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. On June 20, 2019 Sione Atu Latu/Security On Call, LLC entered into a Consent Agreement with the Board in the amount of \$13,096.80 for registration violations. The temporary agreement was not signed. The signature on the return receipt for the Consent Agreement for signature is illegible and the signature date was omitted. It was not signed and returned and payment has not been received. On December 19, 2019 the full Board issued a cease and desist to Sione Latu and Security On Call, LLC for failure to pay the consent agreement in the amount \$13,096.80. At its February meeting the Board requested that I initiate civil action for failure to comply with the consent agreement. On March 5, 2020 I filed a Complaint for Money Owed. To date, Mr. Gray has been unsuccessful in obtaining service on either of the Defendants or the Defendant LLC.
2. On October 24, 2019 Michael Angelo Staton/Lyon Shield Security entered into a Consent Agreement with the Board in the amount of \$2,448.00 for registration violations. The temporary agreement was signed by QA Michael Staton on October 23, 2019. Paid in full.
3. On December 19, 2019 Jeffrey LaRe/The Whitestone Group of Ohio, Inc., entered into a Consent Agreement with the Board in the amount of \$5,140.80 for registration violations. The temporary agreement was signed by QA Jeffrey LaRe on December 18, 2019. To be paid in two monthly installments. Payment has not been received.
4. On December 19, 2019 Tracy Burke/East Coast Protective Services, Inc., entered into a Consent Agreement with the Board in the amount of \$5,287.68 for registration violations. The temporary agreement was signed by QA Tracy Burke on December 18, 2019. Paid in full.

5. On February 13, 2020 Julien Duncan/Sterling Services Enterprises, Inc., entered into a Consent Agreement with the Board in the amount of \$306.00 for registration violations. The temporary agreement was signed by QA Julien Duncan on February 12, 2020. Paid in full.
6. On February 13, 2020 Daniel Brock/U.S. Security Associates, Inc., entered into a Consent Agreement with the Board in the amount of \$36,108.00 for registration violations. The temporary agreement was signed by QA Daniel Brock on February 12, 2020. Payment has not been received. Mr. Gray stated that he was notified by staff that payment has been received in full.

II. ADMINISTRATIVE RULES

a. At its meeting on February 22, 2018, the Board began the process for its Periodic Review of Rules to occur in August 2018. The report for the Board's rules was filed and the Public Comment Period ended May 8, 2018. No public comments were received. The Board voted at its June 21, 2018 meeting to approve all of its existing rules.

The Board's rule readoptions were on the Rules Review Commission's August 16, 2018 agenda. The report containing the final classification of the entirety of the Board's rules as "Necessary with Substantive Public Interest" was approved. At its October 25, 2018 meeting, the Board voted to readopt these rules. On November 16th the Notice of Text was filed to commence what is essentially the rulemaking process (i.e. 60-day comment period, public hearing, technical change requests, etc.). A copy of the administrative rule readoptions, were attached to Mr. Gray's December 20, 2018 Attorney's Report.

The Notice of Text for the readoptions was filed, the rules were published on the Board's website and in the North Carolina Register (Vol. 33; Issue 5; Feb. 1, 2019), and a Public Hearing was conducted on February 20, 2019. No written or oral comments were received. The Public Comment Period ended on April 2, 2019. These administrative rule readoptions were an attachment to Mr. Gray's April 25, 2019 Attorney's Report and approved by the Board that day. These rules were approved by the Rules Review Commission at its July 18, 2019, readopted by the Board at its October 2019 meeting, and then had to be re-submitted to the Commission, this time for review and approval as permanent rules.

These readoptions are now being re-filed for review by the Rules Review Commission (RRC) in segments. The first set, consisting of 26 rules, were filed on November 20, 2019. Mr. McDarris and Mr. Gray received 30 pages of Requests for Technical Changes from the Staff Attorney for the Rules Review Commission. Due to the sheer volume of the Requests, and the need to meet with Board staff in order to respond to many of them, Mr. McDarris requested a 30-day extension of time to respond to the Requests which were otherwise due December 13, 2019.

Because of the importance of the on-line application rules (*see, b., below*), it was necessary to file them even though the statutorily mandated re-adoption process was underway. Since these rules were amended during the re-adoption process for all PPSB rules, the RRC allowed us to both amend and re-adopt the "Permitium rules" at the same time.

The first 26 rules passed the Commission on February 20, 2020. A second segment, consisting of 30 rules, was filed with the Commission on March 18th. Mr. McDarris and Mr. Gray received 29 pages of Request for Technical Changes from the Staff Attorney on April 1,

2020. With a concerted effort -- and due in part to the slow-down caused by the various COVID 19 containment measures -- we were able to respond to all Requests by the April 9th deadline without requesting an extension of time. These rules were approved by the Commission at its meeting last Thursday.

Two rules, 14B NCAC .0109 and .0704 received a Staff Objection. The objection to .0704 is identical to the objection to 14B NCAC .0804 in the first set of rules submitted. At its February Board meeting the Board voted to repeal .0804. Mr. Gray recommend that the same thing occur for .0704. As to .0109, it states that the Board will follow the hearing and rulemaking procedures set forth in Chapter 150B of the General Statutes. Since this is already required by law, the Staff Attorney objected to this rule as unnecessary. Mr. Gray agreed, and recommend that it too be repealed. A copy of 14B NCAC 16 .0109 and .0804 were attached as Attachment 2.

Mr. Gray anticipates that Mr. McDarris will file the third and final segment, consisting of 32 rules, within the next two weeks.

MOTION BY MR. ALDRIDGE TO REPEAL RULES 14B NCAC 16 .0109 AND 14B NCAC 16 .0804; SECONDED BY BUFF; MOTION CARRIED.

b. As previously mentioned to the Board during its creation and implementation, the new Permittum on-line licensing and registration application system required changes to the corresponding sections of the Board's administrative rules. With the assistance of Registration Supervisor Shannon Thongkheuang and Licensing Supervisor, Garcia Graham, and former Board Legal Counsel Charles McDarris, Mr. Gray prepared draft rules for the necessary changes and amendments which were approved at the Board's April 25, 2019 meeting. The Notice of Text was filed on July 22, 2019, and published on the PPSB's website on July 23, 2019 and in the North Carolina Register (Vol. 34; Issue 4; August 15, 2019). The Public Hearing was held on August 30, 2019 at the Board's office, and there was on one from the public in attendance. The public comment period ended on October 14th with no public comment, oral or written. These rules as amended were adopted at the Board's October meeting and were filed with the Rules Review Commission for review and approval as a part of the submission for permanent rule filing for the Periodic Review of Rules process referenced in a., above, and were approved by the Commission on February 20, 2020. They were effective March 1, 2020.

c. At the August 22nd meeting, staff requested, and the Board approved, allowing applicants for licensure and registration to submit fingerprints through approved systems -- known by the most common vendor name as "Live Scan" -- in addition to a traditional fingerprint card. Mr. Gray was instructed to prepare amendments to the corresponding administrative rules for applications. Those rule amendments were adopted at the Board's October meeting and the Notice of Text, which begins the formal rulemaking process, will be filed upon completion of the Periodic Review of Rules process.

d. Also at its August 22nd meeting, the Board discussed allowing firearms trainers to train independent of a licensed company. Concern was expressed that if allowed, these trainers would not be covered by the company's insurance. Mr. Gray was instructed to prepare a rule amendment that would require an "independent" firearms trainer to have the liability insurance required by N.C. Gen Stat. § 74C-10(e). That amendment was made a part of 14B NCAC 16

.0902 and approved along with the two rule amendments referenced in d., above, and the Notice of Text will be filed at the same time.

III. LEGISLATION

a. At the request of the Laws & Rules Committee, Mr. Gray prepared a new proposed bill for introduction in the current 2019-2020 Legislative Session. The bulk of this new bill is identical to House Bill 566/Senate Bill 634 from the 2017-2018 Session but with the addition of one new provision voted on by the Board after introduction of these bills, as well as various technical changes the Board approved.

The Laws & Rules Committee considered this new bill at its meeting on December 20, 2018. A copy was attached to Mr. Gray's December 21, 2018 Attorney's Report, and the proposed bill was discussed at the full Board meeting on December 21st where it was deferred to a special Board meeting. Another copy was e-mailed to all Board members and it was again discussed at a special Board meeting via telephone conference call on January 25, 2019. It was tabled for discussion until the Board's February 21st meeting and was approved with some minor modifications. It was introduced in the House as House Bill 630, "Private Protective Services Changes." A copy of the original version of House Bill 630 was attached to Mr. Gray's April 25, 2019 Attorney's Report.

House Bill 630 was heard in the House State & Local Government Committee on April 29th and following a minor technical amendment it received a unanimous vote for a Favorable Report and was referred to the House Finance Committee. It was heard in that Committee on May 29th where it was amended to include a rewrite of the law governing the Alarm Systems Licensing Board. With only two or three "nay" votes, it received a Favorable Report and was referred to the House Committee on Rules, Calendar, and Operations of the House on May 29, 2019, where it was amended to a Private Investigator to receive an endorsement on his or her existing license to perform Close Personal Protection (in lieu of a license) under certain circumstances. It received a Favorable Report. House Bill 630 passed the House on July 9th with minor floor amendment ("Chairman" to "Chair") and has been referred to the Committee on Rules and operations of the Senate.

A copy of House Bill 630 as it currently appears was attached to Mr. Gray's August 22, 2019 Attorney's Report.

b. House Bill 902, "Military-Trained/Spouse Licensure Practices," was introduced on April 16, 2019. This bill would require the Program Evaluation Division (PED) of the General Assembly to study the extent to which the provisions of N.C. Gen. Stat. § 93B-15.1 have improved the ability of military-trained applicants and military spouses to become licensed by occupational licensing boards. The PED's study would have been due to the Joint Legislative Oversight Committee on General Government and to the Department of Military and Veterans Affairs by February 1, 2020.

This bill passed the House 114-0 on May 2nd and was referred to the Senate Rules Committee. (No copy attached.) However, even though bill has not passed, it appears as if the PED proceeded with the study. At its February 10, 2020 meeting the Program Evaluation Oversight Committee considered a bill to amend N.C. Gen. Stat. § 93B-15.1 yet again to

strengthen its provisions and amend N.C. Gen . Stat. § 93B-2 to require reporting on the number of applications received, granted and denied. A copy was attached as Attachment 3.

c. Senate Bill 553, “Regulatory Reform Act of 2019,” is a broad-ranging bill addressing a myriad of laws from the limits on public employees benefitting from government contracts, to amending the plumbing code, to amending the real estate licensing law, to repealing the ban on computer monitors and TVs being dumped in landfills. One provision, however, would affect the Board.

Section 4. (a) of this bill, if passed, would require all Gen. Stat. § 93B-1 boards to study and report to the Legislative Administrative Procedures Oversight Committee by December 31, 2019 any available options for on-line continuing education. This bill passed the Senate on June 11th after a single amendment (“Committee Substitute”), but was amended numerous times in House committees and on the floor before passing the House on July 8th. Since that time it has been tied up in a joint Conference Committee. (No copy attached.)

Mr. Gray informed the Board that his contract is coming up for renewal.

MOTION BY MS. DUNCAN TO ACCEPT THE ATTORNEY'S REPORT; SECONDED BY MR. JOHNSON; MOTION CARRIED.

MOTION BY MR. BUFF TO ADJOURN; SECONDED BY MR. CESENA; MOTION CARRIED.

9:57 A.M. Adjourned

Paul Sherwin, Director

Garcia Graham, Board Secretary