

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Private Protective Services Board intends to adopt the rules cited as 14B NCAC 16 .0116, .0117, and amend the rules cited as 14B NCAC 16 .0103, .0105, and .0501-.0503.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdps.gov/about-dps/boards-commissions/private-protective-services-board>

Proposed Effective Date: September 1, 2025

Public Hearing:

Date: May 20, 2025

Time: 2:00 p.m.

Location: 3101 Industrial Drive, Suite 104, Raleigh, NC 27609

Reason for Proposed Action: 14B NCAC 16 .0103, the definitional section of this Chapter, is being amended to gender neutralize the chair position, specify the amount of experience required, and remove definitions for a deleted rule and for a non-existent guard category. 14B NCAC 16 .0105 is amended and new .0116 is adopted, to require a licensee's license number to be included in any advertisement.

It was recently discovered that the Board did not adopt a rule setting forth its procedure for requesting a declaratory ruling when the requirement in G.S 150B-4(a) was enacted. It is now doing so.

The rules for licensure as a polygraph examiner, 14B NCAC 16 .0501, .0502 and .0503, are being amended to bring them up to current standards.

Comments may be submitted to: Paul Sherwin, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609; phone (919) 788-5320; fax (919) 715-0370; email paul.sherwin@ncdps.gov

Comment period ends: June 30, 2025

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 16 - PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

14B NCAC 16 .0103 DEFINITIONS

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

- (1) "Advertising medium" means any form of written, printed, broadcast or computer-based advertising, or other promotional materials, except a telephone directory listing for which no additional advertising charge is made.
- ~~(1)~~(2) "Agency Head" means the ~~Chairman~~ Chair of the Board.
- ~~(2)~~(3) "Applicant" means any person, firm, or corporation applying to the Board for a license, trainee permit, registration, or firearms trainer certificate.
- ~~(3)~~(4) "Armed Security Guard" means an individual employed, full time or part time, by a contract security company or a proprietary security organization:
 - (a) who at any time wears, carries, or possesses a firearm in the performance of his or her duties; and
 - (b) whose principal duty is that of:
 - (i) an armed security guard, officer, patrol, or watchman;
 - (ii) an armed armored car service guard; or

- (iii) an armed courier service guard.
- ~~(4)(5)~~ "Board" means the Private Protective Services Board established by G.S. 74C.
- ~~(5)(6)~~ "Branch Manager or Operator" means the individual endowed with the responsibility and liability for a branch office.
- ~~(6)(7)~~ "Branch Office" means a separate but dependent part of a central organization engaged in the business of providing private protective services established for the purpose of extending the activities of the central organization. The establishment of a telephone number or mailing address in the company name constitutes prima facie evidence of a branch office. If an out-of-state person, firm, association, or corporation opens an office in North Carolina, the North Carolina office shall be deemed the principal place of business and shall have a resident licensed qualifying agent.
- ~~(7)(8)~~ ~~"Chairman"~~ "Chair" means the ~~Chairman~~ Chair of the Private Protective Services Board.
- ~~(8)(9)~~ "Contract Security Company" means any person, firm, association, or corporation engaging in a private protective services business as defined in G.S. 74C-3 that provides the services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.
- ~~(9)(10)~~ "Direct Supervision" means personal, face-to-face contact and direction of the trainee's activities on a frequent and reasonable basis based upon the trainee's level of experience.
- ~~(10)(11)~~ "Investigative Capacity" means any law enforcement agency position for which the majority of the duties include conducting investigations and interviews, completing reports, and testifying in courts, administrative hearings, or military tribunals.
- ~~(11)(12)~~ "Law Enforcement Officer" means a sworn peace officer who has the power of arrest, and who is an employee of the United States, any state, or any political subdivision of a state.
- ~~(12)(13)~~ "Licensee" means any person licensed to perform private protective services in North Carolina in accordance with G.S. 74C.
- ~~(13)(14)~~ "Proprietary Security Organization" means any person, firm, association, corporation, or department that employs watchmen, security guards or "officers," patrol personnel, or couriers in connection with the business affairs of the employer.
- ~~(14)(15)~~ "Qualifying Agent" means the individual licensee who is responsible for the private protective services business. If the licensee maintains an office in North Carolina, the Qualifying Agent must be a resident of North Carolina.
- ~~(15)(16)~~ "Registered agent" means the individual resident of North Carolina designated by the business entity in lieu of the Qualifying Agent as allowed by G.S. 74C-8(c)(1) who may be, but is not required to be, the registered agent required by G.S. 55D-30.
- ~~(16)~~ ~~"Restored" means that an individual is no longer in need of psychiatric care as determined by a physician.~~
- ~~(17)~~ ~~"Temporary unarmed security guard" means an individual who is hired for a period of 30 days or less within a calendar year and who is designated by his or her employer as a temporary security guard at the start of employment.~~

History Note: Authority G.S. 74C-3; 74C-5; 74C-8;
Eff. June 1, 1984;
Amended Eff. October 1, 2013; August 1, 1998; May 1, 1988; July 1, 1987;
Transferred and Recodified from 12 NCAC 07D .0104 Eff. July 1, 2015;
Readopted Eff. August 1, 2020;
Amended Eff. January 1, 2023; March 1, 2022.

14B NCAC 16 .0105 PROHIBITED ACTS

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

- (1) Displays or causes or allows to be displayed, or has in his or her possession any cancelled, revoked, suspended, fictitious, or fraudulently altered license, trainee permit, registration identification card, or firearms trainer certificate, or any document simulating, purporting to be, or purporting to have been issued as a license, trainee permit, registration identification card, or firearms trainer certificate;
- (2) Lends his or her license, trainee permit, registration identification card, or firearms trainer certificate to any person or allows the use thereof by another;
- (3) Displays or represents any license, trainee permit, registration identification card, or firearms trainer certificate not issued to him or her as being his or her license, trainee permit, registration identification card, or firearms trainer certificate; or
- (4) Includes in any advertisement a statement that implies official state authorized certification or approval other than this statement: "Licensed by the Private Protective Services Board of the State of North ~~Carolina~~." ~~Licensees must include their license number.~~ Carolina" and license number required by 14B NCAC 16 .0116.

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

History Note: Authority G.S. 74C-5; 74C-8.1; 74C-12; 74C-16;
Eff. June 1, 1984;
Amended Eff. May 1, 2014; July 1, 1987;
Transferred and Recodified from 12 NCAC 07D .0106 Eff. July 1, 2015;

14B NCAC 16 .0116 ADVERTISING

Any advertisement of private protective services in any advertising media as defined in these Rules shall include the licensee's name and license number, whether or not a trade name is used.

History Note: Authority G.S. 74C-5;
Eff. _____.

14B NCAC 16 .0117 DECLARATORY RULING PROCEDURES

(a) All requests for declaratory rulings shall be in writing and mailed to the Board at the Board's address.

(b) Each request for a declaratory ruling must include the following information:

- (1) the name and address of person requesting the ruling;
- (2) the statute or rule to which the request relates;
- (3) a concise statement of the manner in which the requesting person is aggrieved by the rule or statute or its potential application to him or her;
- (4) names and addresses of additional third persons known to the person aggrieved who may possibly be affected by the requested ruling;
- (5) a statement of all material facts;
- (6) a statement whether or not the person aggrieved is aware of any pending Board action or court action that may bear on the applicability of the statute or rule to the person's particular situation; and
- (7) a statement of the arguments and legal authority supporting the person's position on the applicability of this statute or rule; and

The petitioner shall sign and verify the request before an officer qualified to administer oaths that the information supplied in the request is true and accurate.

(c) Upon receipt of a request for a declaratory ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(d) The Board shall proceed to issue a declaratory ruling when the person requesting the rule shows that, with regard to the facts presented:

- (1) the rule or statute in question is unclear on its face;
- (2) circumstances are so changed since the adoption of a rule that a declaratory ruling is warranted;
- (3) the factors specified in the request were not given appropriate consideration by the Board at the time the rule was adopted;
- (4) the rule or statute is unclear in its application to the requesting person's facts; or
- (5) a fair question exists regarding the validity of the rule because of an absence of authority for the Board's adoption of the rule or other irregularities in the Board's rule-making proceedings.

(e) The Board shall not issue a declaratory ruling when the petitioner's request is the subject of, or materially related to, an investigation or audit by the Board or contested case before the Board.

(f) When the Board determines for good cause that the issuance of a declaratory ruling is unnecessary, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request. The Board will ordinarily decline to issue a declaratory ruling when:

- (1) there has been a similar controlling factual determination made by the Board;
- (2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule;
- (3) the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina;
- (4) the request does not comply with the procedural guidelines within Paragraphs (a) and (b) of this Rule;
- (5) the Board has previously issued a declaratory ruling on substantially similar facts;
- (6) the Board has previously issued a final agency decision in a contested case on substantially similar facts;
- (7) the facts underlying the request for a declaratory ruling were considered at the time of the adoption of the rule in question;
- (8) the subject matter is one concerning which the Board is without authority to make a decision binding the Board or the petitioner;
- (9) the petitioner is not aggrieved by the rule or statute in question or otherwise has no interest in the subject matter of the request;
- (10) there is reason to believe that the petitioner or some other person or entity materially connected to the subject matter of the request is acting in violation of the G.S. Chapter 74C or the rules adopted by the Board; or
- (11) the subject matter of the request is involved in pending litigation, legislation, or rulemaking.

(g) Prior to issuing a declaratory ruling, the Board may give notice of the declaratory proceedings to any persons it deems appropriate and may direct that fact-finding proceedings appropriate to the circumstances of the particular request be conducted by the Board. The proceedings may consist of written submissions, an oral hearing, or other appropriate procedures.

(h) If the Board finds evidence that the factors listed in Subparagraphs (d)(1), (2), or (3) of this Rule exist or potentially exist beyond the specific facts presented in a particular petition for declaratory ruling, the Board shall consider rule-making proceedings on the rule.

(i) A record of each declaratory ruling and the procedures conducted therefor will be maintained by the Board. The record will contain:

- (1) the request for a declaratory ruling;
- (2) all written submissions filed in the request, whether filed by the person requesting the ruling or by any other person;
- (3) a record or summary of oral presentations, if any; and

- (4) a copy of the declaratory ruling.

History Note: Authority G.S. 150B-4;
Eff. _____.

SECTION .0500 - POLYGRAPH

SECTION .0500 – POLYGRAPH

14B NCAC 16 .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE

(a) In addition to the requirements of Section .0200 of this Chapter, applicants for a polygraph license shall:

- (1) ~~pass an examination and a performance test administered by a panel of polygraph examiners appointed by an entity designated by the Board;~~
- (2)(1) successfully complete a course of instruction at any polygraph school approved accredited by the American Polygraph Association, the American Association of Police Polygraphists, or the Board; and Association or approved by the Board using standards established by the American Polygraph Association; and
- (3)(2) ~~have either:~~ have a minimum of
 - (A) ~~one year of verifiable polygraph experience; or experience with verification or certification of having conducted no less than 25 polygraph examinations; and~~
 - (B) ~~complete at least six months of training as a holder of a polygraph trainee permit, and have administered no fewer than 50 polygraph examinations; or~~
- (3) pass a 100 question written examination, provide three sets of polygraph charts from polygraph examinations conducted by the applicant, successfully complete a performance test of independent, blind chart scoring, and successfully complete an oral examination conducted by a panel of polygraph examiners appointed by the Board; or
- (4) have a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces performing polygraph examinations.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a polygraph license who is the spouse of an active duty member of the U.S. Armed Forces shall establish:

- (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 of verifiable experience within the past five years performing polygraph examinations.

(c) Applicants for a polygraph license may ~~take the examination required~~ attempt to complete the requirements in Subparagraph (a)(1) of this Rule no more than twice within a 12 month period. All portions of the examination licensing process must be completed within that 12 month period. Any applicant who fails the polygraph examination four times shall retake the polygraph course of instruction required in Subparagraph (a)(2) of this Rule before taking the polygraph examination again.

(d) ~~Polygraph operators who are duly licensed in another state may perform up to three examinations in this State without being licensed, provided that those examinations are for the purpose of an evaluation of that examiner and the Director has given authorization for this evaluation in advance.~~

History Note: Authority G.S. 74C-5; 93B-15.1;
Eff. June 1, 1984;
Amended Eff. May 1, 2014; October 1, 2013; July 1, 2009; December 1, 1985;
Transferred and Recodified from 12 NCAC 07D .0501 Eff. July 1, 2015;
Readopted Eff. August 1, 2020;
Amended Eff. September 1, 2024; February 1, 2022.

14B NCAC 16 .0502 POLYGRAPH TRAINEE PERMIT REQUIREMENTS

In addition to the requirements of Section .0200 of this Chapter, the following requirements shall apply to polygraph trainees:

- (1) ~~The applicant shall successfully~~ Successfully complete a formal course of instruction at any polygraph school approved by the American Polygraph Association, the American Association of Police Polygraphists, or the Board. Association or approved by the Board using standards established by the American Polygraph Association. A list of approved schools can be found at: <https://www.ncdps.gov/list-polygraph-schools>; and
- (2) ~~The applicant shall be~~ Be directly supervised by a North Carolina licensed polygraph examiner approved by the Board and that examiner shall supervise no more than three trainees at any given time; examiner;
- (3) ~~An individual currently enrolled in a polygraph school may conduct examinations as a part of the course curriculum provided the examinations are on school premises, under the direct one on one supervision of a polygraph licensee, and the school provides written notice to the client that such examinations are being conducted by students and not by licensed polygraph examiners. The school shall maintain a copy of the written notification;~~
- (4)(3) Trainees who wish to apply for a license must submit an application to the Board in accordance with Rule .0201 of this Chapter. Applicants meeting license qualifications within one year of the issuance of a trainee permit shall not be required to pay an additional application fee;
- (5)(4) Any request for renewal of a trainee permit or for issuance of a polygraph license shall be accompanied by an evaluation report of the trainee's performance submitted by the trainee's ~~supervisor; and supervisor.~~
- (6) ~~In addition to the final evaluation report, supervisors shall submit five monthly evaluation reports over the duration of the traineeship on a checklist provided by the Board.~~

History Note: Authority G.S. 74C-5;
Eff. June 1, 1984;
Amended Eff. May 1, 2014; December 1, 1985;
Transferred and Recodified from 12 NCAC 07D .0502 Eff. July 1, 2015;
Readopted Eff. March 1, 2020.

14B NCAC 16 .0503 POLYGRAPH EXAMINATION REQUIREMENTS

Polygraph licensees and trainees shall adhere to the following:

- (1) Obtain written consent from the individual to be examined. The consent form shall be signed in the presence of the examiner and shall include a statement advising the examinee that he or she may terminate the examination at any time.
- (2) A printed or reproducible electronic copy of each chart collected, as well as documents associated with the examination such as reports, question sets, and signed consent forms, shall be retained by the examiner for a minimum of three years. The examiner shall record the following information:
 - (a) the name of the examinee;
 - (b) the date of the examination;
 - (c) the type of examination;
 - (d) the time the examination started;
 - (e) the location of the examination; and
 - (f) the name and license number of the examiner.This requirement may be completed by labeling the beginning of the first printed chart by hand, or by entering the information into the electronic polygraph file.
- (3) The examiner shall give the examinee an opportunity prior to concluding the examination to explain reactions on the charts.
- (4) The examiner shall not issue or permit an employee to issue an examination report that is misleading, biased, or falsified.
- (5) Each examination report shall be a factual, impartial, and objective account of the pertinent information developed during the examination and the examiner's professional conclusion, based upon the analysis of the charts.
- (6) All questions considered for chart analysis shall be documented in writing or an electronic question set and shall be reviewed with the examinee prior to any testing.
- (7) An examiner shall not make a conclusive verbal or written examination report without having administered two or more charts consisting of the same questions.
- (8) An examiner shall not inquire into the sexual conduct or preferences of a person to whom a polygraph examination is being given unless pertinent to an alleged sex-related ~~crime~~, crime or while conducting Post Conviction Sex Offender Testing (POST), nor shall an examiner inquire into the activities, affiliations, or beliefs on religion, politics, or race, except where there is relevancy to an investigation.
- (9) Each chart shall be signed at the end of the chart by the examinee and the examiner before the end of the recording if using an analog instrument. If an analog instrument is used, the examiner shall retain printed and not electronic copies of the charts for a minimum of three years. Retaining reproducible electronic copies of all charts noting the names of the examiner and examinee as well as the date and time of testing will also meet the requirements of this Item.
- (10) An examiner shall conduct no more than five examinations in a 24 hour period.
- (11) Each examiner shall keep a daily log of examinations. The daily log of examinations shall be maintained by the licensee for a minimum of three years and shall be subject to inspections by the Director or the Director's designee between 8:00 a.m. – 5:00 p.m. Monday through Friday.

History Note: Authority G.S. 74C-5;
Eff. June 1, 1984;
Amended Eff. May 1, 2014; December 1, 1987; July 1, 1987; December 1, 1985;
Transferred and Recodified from 12 NCAC 07D .0503 Eff. July 1, 2015;
Readopted Eff. August 1, 2020.