

DEPARTMENT OF ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
Board of Examiners of Private Investigators and Private Security Agencies
24 DE Admin. Code 1300
Statutory Authority: 24 Delaware Code,
Section 1304(b)(3) (24 Del.C. §1304(b)(3))

FINAL

ORDER

Pursuant to the Guidelines in 29 **Del.C.** §10118(a)(1)-(7), the Board of Examiners of Private Investigators and Private Security Agencies ("Board") hereby issues this Order. Following notice and a public hearing held on July 15, 2004 on the proposed amendment of promulgated rules and regulations **5.0 Uniforms, Patches, Badges, Seals, Vehicular Markings** and **6.0 – Qualified Manager/License Holder**, the Board makes the following Findings and Conclusions:

Summary of Evidence and Information Submitted

1. The Board did not receive written evidence or information pertaining to the proposed amendment.
2. The Board expressed its desire to amend Rule 5.0 to eliminate the use of unmarked vehicles and give specific direction for marked vehicles and to amend Rule 6.0 to require the license holder be an owner/partner/corporate officer.

Findings of Fact

3. The public was given notice and the opportunity to provide the Board with comments, in writing and by oral testimony, on the amendment of the rule. The written comments and oral testimony received are described in paragraph 1.
4. The Board finds that the amendment of these rules will eliminate the use of unmarked vehicles and give specific direction for marked vehicles and require the license holder be an owner/partner/corporate officer.
5. The Board finds that the amendment will have no adverse impact on the public.
6. The Board finds that the amendments are well written and describe their intent to amend the rules eliminate the use of unmarked vehicles and give specific direction for marked vehicles and to require the license holder be an owner/partner/corporate officer.

Conclusion

7. The proposed rule amendment was promulgated by the Board in accord with the statutory duties and authority as set forth in 24 **Del.C.** §1304 et seq. and, in particular, 24 **Del.C.** §1304(b)(3).
8. The Board deems this amendment necessary and expedient to the full and official performance of its duties under 24 **Del.C.** §1304 et. seq.
9. The Board concludes that the amendment of this rule will be in the best interests of the citizens of the State of Delaware.
10. The Board therefore adopts the amendment of this rule pursuant to 24 **Del.C.** §1304(b)(3) and guidelines of 29 **Del.C.** §10118 of the Administrative Procedures Act. See, Strauss v. Silverman, Del. Supr., 399 A.2d 192 (1979).
11. This amended rule replaces 6.0(6.2), in its entirety, any former rule or regulation heretofore promulgated by the Board.
12. The effective date of this Order shall be August 9, 2004.
13. Attached hereto and incorporated herein this order is the amended rule marked as exhibit A and executed simultaneously by the Board on the 15th day of July, 2004.

Colonel L. Aaron Chaffinch, Chairman

APPROVED AS TO FORM:

Ralph K. Durstein, III, Esquire
Deputy Attorney General

1.0 Firearm's Policy

1.1 No person licensed under 24 Del.C. §1315 & §1317 shall carry a firearm unless that person has first passed an approved firearms course given by a Board approved certified firearms instructor, which shall include a minimum 40 hour course of instruction. Individuals licensed to carry a firearm must shoot a minimum of three (3) qualifying shoots per year, scheduled on at least two (2) separate days, with a recommended 90 days between scheduled shoots. Of these three, there will be one (1) mandatory "low light" shoot. Simulation is permitted and it may be combined with a daylight shoot.

1.2 Firearms - approved type of weapons

- 1.2.1 9mm
- 1.2.2 .357
- 1.2.3 .38
- 1.2.4 .40

1.3 All weapons must be either a revolver or semi-automatic and must be double-action or double-action only and must be maintained to factory specifications.

1.4 Under no circumstances will anyone be allowed to carry any type of shotgun or rifle or any type of weapon that is not described herein.

1.5 All individuals must qualify with the same type of weapon that he/she will carry.

1.6 All ammunition will be factory fresh (no re-loads).

1.7 The minimum passing score is 75%.

1.8 All licenses are valid for a period of five (5) years, subject to proof of compliance of Rule 1.0 by submission of shoot sheets by January 31st of each year for the previous calendar year.

Adopted 11/04/1994

3 DE Reg. 960 (1/1/00)

7 DE Reg. (3/1/04)

2.0 Nightstick, Pr24, Mace, Peppergas and Handcuffs

To carry the above weapons/items a security guard must have completed a training program on each and every weapon/item carried, taught by a certified instructor representing the manufacturer of the weapon/item. Proof of these certifications must be provided to the Director of the Board of Examiners. Under no circumstances would a person be permitted to carry any other type weapon/item, unless first approved by the Director of the Board of Examiners.

Adopted 11/04/1994

3.0 Personnel Rosters and Job Assignments

3.1 Anyone licensed under 24 Del.C. Ch. 13 shall submit an alphabetical personnel roster and a job site list to the director of the Detective Licensing Section by the tenth of every month. Alphabetical personnel rosters shall include the full name, DOB, race, sex, expiration date, and position code of each individual in your employ. For example:

Mark A. Smith	01/25/60W	M	01/25/99	SG
Helen E. White	03/17/71B	F	03/17/00	FA
John F. Henry	05/23/43B	M	05/23/00	PI
James D. Williams	12/03/40W	M	06/30/99	MG
Frank G. Montgomery	07/24/55BM		06/30/99	LH
Anne L. Murray	10/20/40W	F	06/30/99	CO
SG	Security Guard			
FA	Firearm's			
PI	Private Investigator			
MG	Delaware Manager			
LH	License Holder			
CO	Corporate Officer			

3.2 Job site lists shall include the name, address, location, and hours of coverage. For example:

The DuPont Industry
Barley Mill Road
2200 - 0600 Hours, Monday, Wednesday, and Friday
Adopted 11/04/1994
3 DE Reg 960 (1/1/00)

4.0 Record Book; Right of Inspection

All persons licensed under 24 Del.C. Ch.13 shall keep and maintain at their place of business, at all times, a book that shall contain the names and positions of all employees along with the location that each employee is assigned to work. This book shall contain all current personnel information and at all times shall be current and up-to-date to include the list of weapons/items each employee is qualified to carry, the certification dates, scores and the serial number of the weapon/item, if applicable.

Adopted 11/04/1994
3 DE Reg 960 (1/1/00)

5.0 Uniforms, Patches, Badges, Seals, Vehicular Markings Amended 04/17/97

5.1 No person licensed under 24 Del.C. Ch. 13 shall wear or display any uniform, patch, or badge unless first approved by the Board of Examiners. The use of "patrol" and/or "officer" on any type of uniform, patch, badge, seal, vehicular marking or any type of advertisement shall first be preceded by the word "security". Under no circumstances shall a uniform, patch, badge, seal, vehicular marking, letterhead, business card or any type of advertisement contain the seal or crest of the State of Delaware, any state of the United States, the seal or crest of any county or local sub division, or any facsimile of the aforementioned seals or crests.

5.2 Advertisement and other forms of publications:

5.2.1 No letterhead, business card, advertisement, or other form of publication including but not limited to uniforms, patches, badges, seals, vehicular markings and similar items may be used or displayed unless first approved by the Board of Examiners. No such items will be approved by the Board if the item will mislead the public by confusing the licensee and/or his/her employees with official law enforcement agencies and/or personnel.

5.2.2 All uniforms displaying a patch must contain an approved patch that is not generic in nature. The patch must have the name of the agency printed on it.

~~5.2.3 Auxiliary lights on vehicles, used for patrol, shall be amber and/or clear only. Use of sirens is prohibited.~~

5.3. Vehicle Identification

5.3.1 No person or entity licensed under Title 24, Chapter 13 of the Delaware Code shall utilize any vehicle in the course of activities covered by said Chapter 13, unless the appearance of the vehicle, including any identifying marking, shall have been first approved by the Board of Examiners using the standards and criteria set forth in this Rule.

5.3.2 The content of any vehicle marking shall be governed by the standards and criteria set forth in Rule 5.1 above.

5.3.3 No vehicle utilized for purposes covered by Title 24, Chapter 13 shall have an appearance that creates a reasonable likelihood of confusion with a police vehicle used by the Delaware State Police or a law enforcement agency of any state or governmental subdivision. The Board of Examiners shall have discretion to review the appearance of vehicles, and to make comparisons with known law enforcement vehicles, in order to enforce this Rule.

5.3.4 In the event that a vehicle is not approved by the Board of Examiners pursuant to this Rule, the Board may indicate what changes to the vehicle appearance would be sufficient to satisfy the standard and criteria set forth above.

~~5.3.5 Auxiliary lights on vehicles, used for patrol, shall be amber and/or clear only. Use of sirens is prohibited.~~

Adopted 11/04/1994
3 DE Reg. 960 (1/1/00)

6.0 Qualified Manager

6.1 A qualified manager cannot be employed by more than one company at the same time. For example; a person cannot serve as a qualified manager for two separate private security agencies and/or private investigative agencies.

6.2 A qualified license holder must be an owner/partner/corporate officer of the agency requesting licensure.

Adopted 11/04/1994

7.0 Employment Notification

7.1 It shall be the responsibility of each person licensed as a security guard under 24 **Del.C.** Ch. 13 to notify the Director of the Board of Examiners, in writing within 24 hours, if such person is terminated or leaves one agency for employment with another or works for more than one security guard agency. Under no circumstances will a security guard be permitted to be employed by more than two agencies at a time. It is also the responsibility for each licensed security guard to advise his/her employer(s) of whom he/she is employed with (i.e. If a security guard is employed with two security guard agencies, both employers must be made aware of this fact as well as the Director of the Board of Examiners.)

7.2 Employers Responsibility

7.2.1 A licensed private security agency, after investigation, shall notify the Detective Licensing Office, in writing, of any terminated employees. This information is to be included in the next monthly roster report following the termination.

7.2.2 A licensed private security agency shall report to the Detective Licensing Office, in writing, the following:

7.2.2.1 The name of any employee arrested;

7.2.2.2 The name of any employee admitted to any mental hospital ward, mental institution or sanitarium; or

7.2.2.3 The name of any employee disabled from carrying, owning, or possession a gun by action of federal or state statute and/or court order, including bond orders and protection from abuse orders.

Adopted 11/04/1994

4 DE Reg. 361 (8/1/00)

8.0 Criminal Offenses

In addition to those qualifications set forth in 24 **Del.C.** §1314, no person required to be licensed under this chapter shall be issued a license, if that person has been convicted of Assault III or Offensive Touching misdemeanor within the last three (3) years.

Adopted 11/04/1994

9.0 Private Investigators

9.1 A Private Investigator must not be a member or employee of any Law Enforcement Organization, as defined by the Council on Police Training.

9.2 At the time of processing, a Private Investigator must provide proof of employment by a licensed Private Investigative Agency with the Private Investigator application signed by the employer. The identification card will bear the employer's name. Upon termination of employment, the identification card is no longer valid. If seeking employment with another licensed agency, the Private Investigator must be re-licensed with the new employer and a new identification card will be issued as in the previous procedure.

9.3 A licensed Private Investigator may only be employed by one licensed private investigative agency at a time.

Adopted 11/04/1994

10.0 Licensing Fees

10.1 Class A License - Private Investigative Agency

10.1.1 In-State License Holder

10.1.1.1 Individual - No Employees - Not Corporation

10.1.1.1.1 \$230

10.1.1.1.2 \$5,000 Bond

10.1.1.1.3 \$1,000,000 Liability Insurance per occurrence

10.1.1.2 Corporation - Has Employees

10.1.1.2.1 \$345

10.1.1.2.2 \$10,000 Bond

10.1.1.2.3 \$1,000,000 Liability Insurance per occurrence

10.1.2 Out-of-State

- 10.1.2.1 License Holder - Individual and Corporation
 - 10.1.2.1.1 \$345
 - 10.1.2.1.2 \$10,000 Bond
 - 10.1.2.1.3 \$1,000,000 Liability Insurance per occurrence
- 10.1.2.2 Delaware Manager
 - 10.1.2.2.1 \$230
 - 10.1.2.1.2 \$5,000 Bond
- 10.2 Class B License - Private Security Agency
 - 10.2.1 In-State License Holder
 - 10.2.1.1 Individual - No Employees - Not Corporation
 - 10.2.1.1.1 \$230
 - 10.2.1.1.2 \$5,000 Bond
 - 10.2.1.1.3 \$1,000,000 Liability Insurance per occurrence
 - 10.2.1.2 Corporation - Has Employees
 - 10.2.1.2.1 \$345
 - 10.2.1.2.2 \$10,000 Bond
 - 10.2.1.2.3 \$1,000,000 Liability Insurance per occurrence
 - 10.2.2 Out-of-State
 - 10.2.2.1 License Holder - Individual and Corporation
 - 10.2.2.1.1 \$345
 - 10.2.2.1.2 \$10,000 Bond
 - 10.2.2.1.3 \$1,000,000 Liability Insurance per occurrence
 - 10.2.2.2 Delaware Manager
 - 10.2.2.2.1 \$230
 - 10.2.2.2.2 \$5000 Bond
- 10.3 Class C License - Private Investigative & Private Security Agency
 - 10.3.1 In-State License Holder
 - 10.3.1.1 Individual - No Employees - Not Corporation
 - 10.3.1.1.1 \$345
 - 10.3.1.1.2 \$10,000 Bond
 - 10.3.1.1.3 \$1,000,000 Liability Insurance per occurrence
 - 10.3.1.2 Corporation - Has Employees
 - 10.3.1.2.1 \$520
 - 10.3.1.2.2 \$15,000 Bond
 - 10.3.1.2.3 \$1,000,000 Liability Insurance per occurrence
 - 10.3.2 Out-of-State
 - 10.3.2.1 Individual and Corporation
 - 10.3.2.1.1 License Holder
 - 10.3.2.1.1.1 \$520
 - 10.3.2.1.1.2 \$15,000 Bond
 - 10.3.2.1.1.3 \$1,000,000 Liability Insurance per occurrence
 - 10.3.2.1.2 Delaware Manager
 - 10.3.2.1.2.1 \$345
 - 10.3.2.1.2.2 \$10,000 Bond
- 10.4 Class D License - Armored Car Agency License
 - 10.4.1 License Holder
 - 10.4.1.1 \$345
 - 10.4.1.2 Banking Commissioner License as required by 5 Del.C. §3203
 - 10.4.1.3 \$10,000 Bond
 - 10.4.1.4 \$1,000,000 Liability Insurance per occurrence.
 - 10.4.2 Delaware Manager
 - 10.4.2.1 \$230
 - 10.4.2.2 \$5000 Bond

10.5

6 DE Reg. 637 (11/01/02)

7 DE Reg. (03/01/04)

11.0 Use Of Animals

The use of animals is prohibited in the performance of private security activities.

Adopted 04/23/1998

3 DE Reg 960 (1/1/00)

8 DE Reg. 325 (8/1/04)