

MINUTES
OF THE
NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD

DATE: September 21, 2017

TIME: 9:00 A.M.

PLACE: Holiday Inn Raleigh North
Raleigh, North Carolina

SUBMITTED BY: Brian Jones
Director

MEMBERS PRESENT:

Ralph Gregory
Jim Crabtree
Larry Proctor
Courtney Brown
John Sherbin

MEMBERS ABSENT:

John Walsh

STAFF PRESENT:

Director Brian Jones
Interim Deputy Director Wayne Woodard
Investigator Melvin Turner
Investigator Ronnie Broadwell
Investigator George Daniels
Field Services Supervisor Phillip Stephenson

Board Secretary Cynthia Anthony
Attorney Jeff Gray

VISITORS:

Mark Valeria
Duncan Hubbard
Charles F. Keller Jr.
Daniel N. Comfort
Walter M Curtis IV
Anita Surratt
Candis Hanson
Christopher Nobling
Dorian Dehnel
Kevin Smith
Timothy Ray Mangum
David Baratta

Edwardo J. Grijalva
Wilbur G. Robbins
Laurie Hudnell
Brian Smith
Amanda Jones
Darwin Smith
David Bollinger
William Moore
Malcolm Burchett
B. Nah
David Sperber
Mack Donaldson

Jennifer Murphy

The September 21, 2017 meeting of the North Carolina Alarm Systems Licensing Board was called to order by Chairman Gregory at 9:00 a.m.

In accordance with the State Ethics Law, Attorney Gray read the following information. "It is the duty of every Board member to avoid both conflicts of interest and appearances of conflict. If any member has any known conflict of interest or appearance of conflict with respect to any matter coming before this Board today, please identify the conflict or appearance and refrain from the deliberation and vote in that matter."

Mr. Gregory welcomed all guests and recognized a new Board member, Jim Crabtree, and the new Director for Private Protective Service, Brian Jones.

Mr. Doug Holbrook, Chief Financial Officer for the Department of Public Safety, addressed the Board about the classification of Board Member as employees. There was a discussion about the Board being classified as temporary employees and, instead of receiving a 1099, starting this tax year, the members will receive a W-2. This determination was made by the State Controllers' Office and it is based on guidance from the IRS. The Board objected to this and has instructed attorney Gray to write a letter to the State Controller and also, seek clarification from the legislature.

MR. COURTNEY BROWN MADE A MOTION TO APPROVE THE JULY 20, 2017 BOARD MEETING MINUTES. SECONDED BY MR. SHERBIN. MOTION CARRIED.

Mr. Gregory gave the Grievance Committee report. Mr. Gregory and Mr. Sherbin met as the Grievance Committee on September 20, 2017 from 9:00 a.m. to 11:35 a.m.

MR. SHERBIN MADE A MOTION TO APPROVE THE GRIEVANCE COMMITTEE REPORT. SECONDED BY MR. PROCTOR. MOTION CARRIED

Mr. Sherbin gave the Screening Committee report.

MR. SHERBIN MADE A MOTION TO APPROVE # 2 WALTER MASON CURTIS IV ON THE SCREENING REPORT. SECONDED BY MR. CRABTREE. MOTION CARRIED. IT WAS NOTED THAT MR. COURTNEY BROWN RECUSED HIMSELF FROM VOTING IN THIS MATTER.

MR. PROCTOR MADE A MOTION TO APPROVE THE OTHER EIGHTEEN (1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 & 19) RECOMMENDATIONS ON THE SCREENING REPORT. SECONDED BY MR. SHERBIN. MOTION CARRIED.

FINAL AGENCY DECISION

None

SPECIAL REPORTS AND PRESENTATIONS

Mr. Larry Proctor gave the continuing education report.

1. Alarm.com. Smart Thermostat Installation 201 -The committee recommends approval for 1 CEU for this course.
2. Automation and Energy 201 -The committee recommends approval for 1 CEU for this course.
3. Installer Tools 201 -The committee recommends approval for 1 CEU for this course.
4. Interactive Services and Image Sensor 201- The committee recommends approval for 1 CEU for this course.
5. System Enhancement Module (SEM) 201 (**online**) -The committee recommends approval for 1 CEU for this course.
6. Video as a Service 201 -The committee recommends approval for 1 CEU for this course.
7. Alarm.com Doorbell Camera 201 -The committee recommends approval for 1 CEU for this course.
8. Smarter Business Solutions State of the Market 201 -The committee recommends approval for 1 CEU for this course.
9. Smarter Business Solutions Product Overview 201- The committee recommends approval for 1.25 CEU's for this course.
10. Smarter Business Solutions Growth & Productivity Services 201- The committee recommends approval for .05 CEU for this course.
11. Selling Smarter Business Solutions 201 -The committee recommends approval for 1.25 CEU's for this course.
12. Customer Refresh Your Selling Skills 201- The committee recommends approval for 2 CEU's for this course.
13. Product Overview 201- The committee recommends approval for 1 CEU for this course.
14. Customer Growth & Productivity Services 201 The committee recommends approval for 1.25 CEU's for this course.
15. Customer Engagement & Upsell 201- The committee recommends approval for 1 CEU for this course.
16. Advanced Automation & Energy 401 -The committee recommends approval for 2 CEU's for this course.
17. Advanced Video as a Service 401 -The committee recommends approval for 4 CEU's for this course.
18. Installer Tools 301 -The committee recommends approval for 1.25 CEU's for this course.
19. Automation and Energy 301- The committee recommends approval for 2 CEU's for this course.
20. Alarm.com Doorbell Camera 301- The committee recommends approval for 1 CEU for this course.
21. Video as a Service 301 The committee recommends approval for 1 CEU for this course.
22. System Enhancement Module (SEM) 201 (**classroom**) - The committee recommends approval for 1 CEU for this course.
23. Smart Thermostat Installation 201- The committee recommends approval for 1 CEU for this course.

24. Interactive Services and Alarm.com Image Sensor 301-The committee recommends approval for 1.5 CEU's for this course.
25. Interlogix NX Series Control Panel - The committee recommends **denial** because it is only open to their employees.
26. National Electrical Code as it applies to Fire Alarm Systems - The committee recommends **denial** because it does not meet the criteria.
27. Egress Control and Exit Devices -The committee recommends approval for 2 CEU's for this course.
28. Life Safety and Occupancies -The committee recommends approval for 3 CEU's for this course.
29. Life Safety and Fire Alarm Systems -The committee recommends approval for 1 CEU for this course.

MR. CRABTREE MADE A MOTION TO APPROVE THE COURSES AS PRESENTED WITH THE EXCEPTION OF 25 AND 26. SECONDED BY MR. COURTNEY BROWN. MOTION CARRIED

UNFINISHED BUSINESS

None

OLD BUSINESS

None

NEW BUSINESS

Mr. Gray supplied the Board a *draft* copy of guidelines regarding the Education Grant Fund Program. Mr. Gregory had proposed the Board revise its current policy so that the guidelines for reimbursement are clear to the industry. Changes were made to the grant program guidelines including the maximum amount being changed from **\$5,000** to **\$10,000** per application, and that all funds must be expended and accounted for within 60 days of the event.

MR. JOHN SHERBIN MADE A MOTION TO APPROVE THE EDUCATION GRANT FUND PROGRAM GUIDELINES WITH PROPOSED CHANGES AS DISCUSSED. SECONDED BY MR. LARRY PROCTOR. MOTION CARRIED

Mr. Gray addressed the Board and the issue of companies hiring independent contractors/1099 employees and amending the registration rules that require licensed companies to register any independent contractor/1099 employees. Mr. Sherbin stated that in his opinion, the Board is merely clarifying the word "employee" and that if you are paying an employee in a covered activity, you are responsible for them and they should be registered.

MR. BROWN MADE A MOTION TO INSTRUCT ATTORNEY GRAY TO MAKE THE APPROPRIATE RULE CHANGE CONCERNING INDEPENDENT CONTRACTORS/1099 EMPLOYEES. SECONDED BY MR. LARRY PROCTOR. MOTION CARRIED.

Mr. Gregory stated that the Board would like to explore the possibility of adopting a policy relating to the smart home concept and the security system itself. Alarm companies are installing systems that control more than just security, they control many other functions referred to as the hub. There have been issues concerning customer complaints that the alarm companies are not taking responsibility after they have installed things like the thermostat and it has burned up and or is not working. The thermostat is controlled by the hub through the alarm system. The Board wants to give the PPS staff clear guidance. If it is controlled through the alarm system then it is the responsibility of the alarm company.

DIRECTOR'S REPORT

Mr. Brian Jones presented the written report and advised as of August 31, 2017, the Alarm Board's balance was \$694,751.05. The Education Fund balance was \$67,049.90. As of 8/31/17, the Board has 944 licensees and 7863 registrants. Mr. Jones confirmed the adjustment (\$6,384.00) from the July 2017 budget report was for fingerprint fees. Another substantial expense was for scanning documents; the amount spent was \$13,627.00. The amount spent for additional furnishings for the move to 3101 Industrial Drive was \$300.00. The amount spent for temporary employees was \$25, 889.00. Also, the staff would like to acquire four (4) additional temporary employees to assist with the backlog and the migration to the new Permitium system.

At the next meeting, Mr. Sherbin requested the Board be given an idea on what the real 'run rate' is and whether or not we are operating at a deficit.

Mr. Jones gave the staffing update. There is still a full time permanent position open and it will be filled in the near future. In the meantime, temporary staff will be utilized. The Lead Worker position has been filled by Malquis Oakley. The Processing Assistant IV position in registration has been filled by Mary Presley. Also, PPS is exploring the possibility of overtime and bringing in existing full time employees in an effort to decrease the backlog.

Mr. Woodard reported the meal and hotel reimbursement amounts have increased slightly.

Mr. Jones reported that staff is continuously testing the Permitium system. There will be a newsletter notifying the industry of the process and training sessions through webinar and historical videos through YouTube. The projected live date for the registration segment of the Permitium System is in November 2017.

MR. CRABTREE MADE A MOTION TO ACCEPT THE DIRECTOR'S REPORT AS PRESENTED. SECONDED BY MR. BROWN. MOTION CARRIED.

ATTORNEY'S REPORT

I. CONSENT AGREEMENTS & CIVIL PENALTIES

1. On July 21, 2016 **Andrew Edward McColgan Jr. /Magnum Security** entered into a Consent Agreement with the Board in the amount of \$2570.40 for

Registration Violations. The Agreement was signed by the QA on 8/17/16. **Payment has not been received**

2. On January 19, 2017 **Nathan Taylor/Taylor Control Systems** entered into a Consent Agreement with the Board in the amount of \$6242.40 for registration violations to be paid in three monthly installments. The Agreement was mailed on February 8, 2017 and the return receipt received February 22, 2017. **Payment has not been received.**
3. On May 26, 2016 **Mr. Joel C. Garrett/ Alert Detection Technologies, Inc.**, entered into a Civil Penalty Agreement in the amount of \$225.00 for contractual violations. **Payment has not been received.** License revoked by Board at July meeting.
4. On July 20, 2017 **Mickey Osmanski (Jeffery Dean Wood)/Vector Security** entered into a Consent Agreement with the Board in the amount of \$5140.80 for registration violations. The Agreement was signed by the QA on July 31, 2017. **Payment has been received.**
5. On July 20, 2017 **Richard Warren King/Crown Security** entered into a Consent Agreement with the Board in the amount of \$1101.60 for registration violations. The Agreement was signed by the QA on August 7, 2017. **Payment has been received.**

II. OFFICE OF ADMINISTRATIVE HEARINGS

See, Hearings List (attachment 1.)

III. RULES

a. At the Board's May 25th meeting the Board approved the rule amendments necessary to implement the decision to require all applicants to utilize the Board's third party vendor for criminal history records checks. The Notice of Text for these proposed amendments was filed on June 19, 2017 and the Public Hearing was held July 19, 2017 at the Board's Raleigh office. The public comment period expired September 1, 2017. No oral or written comments were received. A copy of these rules are attached. (*See, attachment 2.*) A vote to approve these rules today is in order.

b. During a special Board meeting via telephone conference call on July 6th, the Board approved two minor rule amends to effectuate electronic payment in anticipation of the Permitium on-line application process. The Notice of Text for these proposed amendments was filed July 7, 2017 and the Public Hearing was held September 7, 2017 at 2:00 p.m. at the Board's Raleigh office. No oral or written comments were received. The public comment period expires October 2, 2017.

c. The Board's administrative rules subject to the Periodic Review of Rules were considered at the Rules Review Commission's August 17, 2017 meeting. They were approved. Attorney Gray's associate, Maggie Craven, has started the readoption process.

VI. At the May, 2017 Board meeting there was a discussion regarding increasing participation in the grant program for the use of Education Fund monies to educate and train members of the industry and others. Attorney Gray presented a draft Policy regarding the same topic that was considered by the Private Protective Services Board adopted at its June meeting. The Board asked that Attorney Gray work with Chair Gregory to develop and prepare a similar policy for it. A draft of such a Policy was provided at the July Board meeting. (*See*, attachment 3.) The Board Chair tabled any consideration to allow the Board members an opportunity to review it.

V. LEGISLATION

a. Currently, the Board has no legislation pending. At its March meeting the Board voted to approve the rewrite of Chapter 74D and seek introduction of a bill in the General Assembly. To date, the bill has not been introduced and the bill introduction deadline has passed. The legislature has adjourned until August 3rd. Changes to the Private Protective Services Board's statutes, Chapter 74C, have been introduced as House Bill 566 and Senate Bill 634. Representative Jon Hardister, the Primary Sponsor of HB 566, had originally advised he would amend HB 566 to "roll in" the requested changes to Chapter 74D. A Proposed Committee Substitute was prepared but Representative Hardister later chose not to do so in hopes of getting HB 566 passed before adjournment in June. (House Bill 566 passed the House Judiciary I Committee, the House Finance Committee, and was approved by the full House. It is currently assigned to the Senate Committee on Rules, Calendar and Operations of the Senate.)

b. As an interesting side note, while DPS's Legislative Liaison and the Board were attempting to have the 74D rewrite rolled into HB 566, the lobbyist for one of the Board's licensees had two provisions of the rewrite inserted into a "regulatory reform" bill, SB 16. This bill passed during the first reconvened Session of the legislature on August 4th, but subsequently vetoed by the Governor. To date, there has been no vote to override the veto.

c. At its reconvened session on August 4th, the General Assembly enacted Senate Bill 407, S.L. 2017-203, the "Employee Fair Classification Act." Intended to discourage and prevent employers from misclassifying employees as independent contractors to avoid tax liabilities and other obligations, the Act is codified as Article 82 of Chapter 143. New G.S. 143-765 requires every occupational licensing board and commission (which includes this Board) to include on every application for licensure, permit, or certification an acknowledgement that the applicant has read and understands the public notice statement to be created by new G.S. 173-764(a)(5) and to also disclose

any investigations for employee misclassification and the result of the investigations for a time period determined by the occupational licensing board or commission. The board or commission is required to deny the license, permit, or certification application of any applicant who fails to comply with the certification and disclosure requirements of this new law.

The law is effective July 1, 2018 (11 months from now) and will necessitate the Board making the above addition to its applications.

Attorney Gray has prepared a separate Memorandum to staff regarding this and other legislatively mandated requirements.

d. The legislature has once again amended G.S. 93B-15.1 regarding licensure for individuals with military training and experience. The first version approximately five years ago, and portions of the amendments thereafter, necessitated changes in the Board's administrative rules. Although the most recent amendments to the statute are significant, rule changes are likely not necessary. However, one aspect of the amendments is problematic.

The upside is that a military-trained applicant, or the spouse of active military personnel, can be denied a license, certification, or registration if they have a pending complaint in another jurisdiction. Also, one positive for making us a more military-friendly State--and with a negligible fiscal impact on the Board - - is that the Board can no longer charge for an initial license. (Renewals thereafter are subject to the normal fee.) To date, the Board has had very few applicants who have taken advantage of G.S. 93B-15.1, so this fee waiver will not occur very often.

On the downside is a new provision that requires the Board to issue a temporary "practice permit" to a military-trained applicant, or the spouse of active military personnel, who is licensed in another jurisdiction. The Board has no "permits" of a temporary nature, so a discussion needs to be had about the need for one or more rule changes to comply with this statutory change.

Since these changes are set forth by statute, and only one (denial for a pending complaint) cannot directly be reconciled in our rules, Attorney Gray did not see the need for an immediate change in the Board's administrative rules.

This, too, will be set out in a Memorandum to staff once the Board decides how to handle temporary practice permits.

e. Changes were also made to the Public Records Act (i.e. Chapter 132 of the General Statutes). Since the Public Information Officer within DPS, the staff and Attorney

Gray usually respond to these matters, it is not essential that the Board be conversant in the changes, but Attorney Gray did want the Board to be aware.

First, State agencies are prohibited from purchasing, leasing, creating or otherwise acquiring any system to store and maintain public records that would impede the public's ability to inspect or copy them. The second major change is that a State agency now satisfies the access to public records requirement of G.S. 132-6 by providing the public with access to a computer database in an on-line format that allows a person to view and print.

f. Senate Bill 445 made several changes to North Carolina's expunction laws. Most importantly, the act expands the availability of relief in two ways: 1) it reduces the waiting period to expunge older nonviolent felony and misdemeanor convictions, and 2) it allows a person to obtain an expunction of a dismissal regardless of whether the person received any prior expunctions. Because the bill stated that it applies to petitions filed on or after December 1, 2017, the revised statutes apply to offenses, charges, and convictions that occur before, on, or after December 1, 2017.

The tradeoff for this expansion is that information about expunctions, maintained by the Administrative Office of the Courts and otherwise confidential, is available for review by the prosecutor and useable to calculate prior record level at sentencing if the person is convicted of a subsequent offense. This part of the bill applies to expunctions granted on or after July 1, 2018. The bill made other changes to create more consistency and uniformity in the expunction process.

As a side note, our State's expunction laws allow both commissions that certify law enforcement officers to have access to the record(s) of expunged offenses for purposes of certification. No such exemption exists for this Board.

MR. COURTNEY BROWN MADE A MOTION TO ACCEPT THE RULES ON ATTACHMENT 2 OF THE ATTORNEYS REPORT AS PRESENTED. SECONDED BY MR. SHERBIN. MOTION CARRIED

MR. COURTNEY BROWN MADE A MOTION TO ACCEPT THE ATTORNEY'S REPORT AS PRESENTED. SECONDED BY MR. PROCTOR. MOTION CARRIED

GOOD OF THE ORDER.

The next NCESA meeting is September 21, 2017 at 1:00 pm. Mr. Wayne Woodard, Interim Deputy Director, stated that this is his last Board meeting. The Board members thanked him for his service.

MR. PROCTOR MADE A MOTION TO ADJOURN. SECONDED BY MR. BROWN. MOTION CARRIED.

Meeting Adjourned: 11:25 a.m.

Brian Jones
Director

Cynthia Anthony
Reporter