

New Mexico Regulation & Licensing Department

Private Investigations Advisory Board



Rules and Regulations
Title 16 Chapter 48 Parts 1 - 8
&
Governing Statutes NMSA 1978
61-27B-1 through 61-27B-36

http://www.rld.state.nm.us/boards/Private_Investigations.aspx

(Revised 01/2019)



New Mexico Regulation and Licensing Department
Private Investigations Advisory Board

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TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 1 GENERAL PROVISIONS

16.48.1.1 ISSUING AGENCY: Regulation and Licensing Department, Private Investigations Advisory Board.

[16.48.1.1 NMAC - Re-pr, 16.48.1.1 NMAC, 9/24/2008]

16.48.1.2 SCOPE: This part applies to the board, licensees, registrants, applicants, and the general public.

[16.48.1.2 NMAC - Re-pr, 16.48.1.2 NMAC, 9/24/2008]

16.48.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Sections 61-27B-2, 61-27B-3, 61-27B-4, 61-27B-5, 61-27B-12, 61-27B-22, 61-27B-28 and 61-27B-29 NMSA 1978.

[16.48.1.3 NMAC - Re-pr, 16.48.1.3 NMAC, 9/24/2008]

16.48.1.4 DURATION: Permanent.

[16.48.1.4 NMAC - Re-pr, 16.48.1.4 NMAC, 9/24/2008]

16.48.1.5 EFFECTIVE DATE: September 24, 2008 unless a later date is cited in the history note at the end of a section.

[16.48.1.5 NMAC - Re-pr & A, 16.48.1.5 NMAC, 9/24/2008]

16.48.1.6 OBJECTIVE: To define terms relevant to private investigations, when a license is required, persons exempted, custody and alteration of license, transferability, display of license, notification of changes, local regulations, and professional ethical standards.

[16.48.1.6 NMAC - Re-pr, 16.48.1.6 NMAC, 9/24/2008]

16.48.1.7 DEFINITIONS: As used in these regulations, the following words and phrases have the following meanings, unless the context or intent clearly indicates a different meaning:

A. **“act”** means the New Mexico Private Investigations Act;

B. **“alarm company”** means a company that installs burglar or security alarms in a facility and responds with guards when the alarm is sounded;

C. **“applicant”** means any natural person who is applying for registration or licensure pursuant to the private investigations act;

D. **“armored car company”** means a company that knowingly and willingly transports money and other negotiables for a fee or other remuneration;

E. **“board”** means the New Mexico private investigations advisory board;

F. **“bodyguard”** means an individual who physically performs the mission of personal security for another individual;

G. **“branch office”** means an office of a private investigation company or a private patrol company physically located in New Mexico and managed, controlled or directed by a private investigations manager or private patrol operations manager;

H. **“charts”** means a continuous recording of the physiological changes in human respiration, cardiovascular activity and skin resistance or conductance;

I. **“client”** means an individual or legal entity having a contract that authorizes services to be provided in return for financial or other consideration;

J. **“conviction”** means any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise and whether or not the sentence is deferred or suspended;

K. **“department”** means the regulation and licensing department;

L. **“good moral character”** means a personal history characterized by honesty, fairness and respect for the rights of others and for state and federal law;

M. **“individual”** means a single human being;

N. **“legal business entity”** means a sole proprietorship, corporation, partnership, limited liability company, limited liability partnership or other entity formed for business purposes;

O. **“licensee”** means a person licensed pursuant to the Private Investigations Act;

P. **"polygraph examiner"** means an individual licensed by the department to engage in the practice of polygraphy;

Q. **"polygraph examination"** also referred to as a psychophysiological detection of deception (PDD) means a test or series of tests designed to assess the truthfulness of an examinee to an issue or issues of concern and includes all charts, reports, allied documents and recordings generated or received regarding the testing procedures;

R. **"polygraph instrument"** means a mechanical or digital computer instrument that, at a minimum, records simultaneously physiological changes in human respiration, skin resistance or conductance, and cardiovascular activity including relative blood pressure or volume;

S. **"polygraphy"** means the process of employing an instrument designed to graphically record simultaneously the physiological changes in human respiration, cardiovascular activity, galvanic skin resistance or reflex for the purpose of lie detection and includes the reading and interpretation of polygraphic records and results or any other device used to measure truthfulness;

T. **"private investigation company"** means a legal business entity that provides private investigation services, the location of which may be within or outside of the state, provided that the private investigation services are performed within New Mexico;

U. **"private investigator"** means an individual who is licensed by the department to engage in business or who accepts employment to conduct an investigation pursuant to the Private Investigations Act to obtain information regarding:

(1) crime or wrongs done or threatened against the United States or any state or territory of the United States;

(2) a person;

(3) the location, disposition or recovery of lost or stolen property;

(4) the cause or responsibility for fires, losses, accidents or damage or injury to persons or properties;

(5) the securing of evidence to be used before a court, administrative tribunal, board or investigating committee or for a law enforcement officer; or

(6) the scene of a motor vehicle accident or evidence related to a motor vehicle accident;

V. **"private investigations employee"** means an individual who is registered by the department to work under the direct control and supervision of a private investigator for a private investigation company performing all private investigator duties;

W. **"private investigations manager"** means an individual who:

(1) is licensed as a private investigator and is issued a license by the department as a private investigations manager;

(2) directs, controls or manages a private investigation company for the owner of the company; and

(3) is assigned to and operates from the private investigation company that the private investigations manager is licensed to manage or from a branch office of that private investigation company;

X. **"private patrol company"** means a legal business entity, the location of which may be within or outside of the state, including an independent or proprietary commercial organization that provides private patrol operator services that are performed in New Mexico and the activities of which include employment of licensed private patrol operators or security guards;

Y. **"private patrol operations employee"** means an individual who is registered by the department to work under the direct control and supervision of a private patrol operator for a private patrol company;

Z. **"private patrol operations manager"** means an individual who:

(1) is licensed as a private patrol operator or registered as a level three security guard, is issued a license by the department as a private patrol operations manager and is a New Mexico resident;

(2) directs, controls or manages a private patrol company for the owner of the company; and

(3) is assigned to and operates from the private patrol company that the private patrol operations manager is licensed to manage or from a branch office of that private patrol company;

AA. **"private patrol operator"** means an individual who is licensed by the department to:

(1) conduct uniformed or non-uniformed services as a watchman, security guard or patrolman to protect property and persons on or in the property;

(2) prevent the theft, unlawful taking, loss, embezzlement, misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind; or

(3) perform the services required of a security guard or security dog handler or provide security services for an armored car company;

BB. “**proprietary commercial organization**” means an organization or division of an organization that provides full- or part-time security guard services solely for itself;

CC. “**provisional license**” means a license to practice polygraphy for the probationary period that is required to determine operational competency;

DD. “**registrant**” means an individual registered as a private investigations employee, a private patrol operations employee or a security guard at any level;

EE. “**screening examination**” means any examination that is non-specific and deals with general background information;

FF. “**security dog handler**” means an individual who patrols with dogs to detect illegal substances or explosives;

GG. “**security guard**” means an individual who is registered to engage in uniformed or non-uniformed services under the direct control and supervision of a licensed private patrol operator or a private patrol operations manager to perform such security missions as watchman, fixed post guard, dog handler, patrolman or other person to protect life and property or prevent thefts; and

HH. “**sponsor**” means a licensed polygraph examiner;

II. “**special event**” means a parade or other public or private event of short duration requiring security;

JJ. “**specific event examination**” means any examination that deals with a specific issue, crime or incident, criminal or otherwise;

KK. “**superintendent**” means the superintendent of the regulation and licensing department;

LL. “**test data**” means the physiological data recorded or collected during a polygraph examination;

MM. “**test data analysis**” means the quantitative application of standardized scoring rules to the physiological test data and includes the use of computerized scoring programs.
 [16.48.1.7 NMAC - Re-pr, 16.48.1.7 NMAC, 9/24/2008; A, 1/15/2019]

16.48.1.8 CODE OF ETHICS AND CREED OF CONDUCT:

A. Code of ethics for private security management. As managers of private security functions and employees, we pledge:

- (1) to recognize that our principal responsibilities are, in the services of our organizations and clients, to protect life and property as well as to prevent and reduce crime against our business, industry, or other organizations and institutions; and in the public interest, to uphold the law and to respect the constitutional rights of all persons;
- (2) to be guided by a sense of integrity, honor, justice and morality in the conduct of business; in all personnel matters; in relationships with government agencies, client and employers; and in responsibilities to general public;
- (3) to strive faithfully to render security services of the highest quality and to work continuously to improve our knowledge and skills and thereby improve the overall effectiveness of private security;
- (4) to uphold the trust of our employers, our clients, and the public by performing our function within the law, nor ordering or condoning violations of law, and ensuring that our security personnel conduct their assigned duties lawfully and with proper regard for the rights of others;
- (5) to respect the reputation and practice of others in the private security field, but to expose to the proper authorities any conduct that is unethical or unlawful;
- (6) to apply uniform and equitable standards of employment in recruiting and selecting personnel regardless of race, creed, color, sex or age and in providing salaries commensurate with job responsibilities and with training, education and experience;
- (7) to cooperate with recognized and responsible law enforcement and other criminal justice agencies; to comply with security licensing and registration laws and other statutory requirements that pertain to our business;
- (8) to respect and protect the confidential and privileged information of employers and clients beyond the terms of our employment, except where their interests are contrary to law or to this code of ethics;
- (9) to maintain a professional posture in all business relationships with employers, and clients, with others in the private security field, and with members of other professions; and to insist that our personnel adhere to the highest of professional conduct;
- (10) to encourage the professional advancement of our personnel by assisting them to acquire appropriate security knowledge, education and training;

B. Code of ethics for private security employees. In recognition of the significant contribution of private security to crime prevention and reduction, as a private security guard, I pledge:

- (1) to accept the responsibilities and fulfill the obligations of my role: protecting life and property; preventing and reducing crimes against my employer's business, or other organizations and institutions to which I am assigned; upholding the law; and respecting the constitutional rights of all persons;
- (2) to conduct myself with honesty and integrity and to adhere to the highest moral principles in the performance of my security duties;
- (3) to be faithful, diligent and dependable in discharging my duties, and to uphold at all times the laws, policies, and procedures that protect the rights of others;
- (4) to observe the precepts of truth, accuracy, and prudence without allowing personal feelings, prejudices, animosities or friendships to influence my judgments;
- (5) to report to my superiors, without hesitation, any violation of the law or of my employer's or client's regulation;
- (6) to respect and protect the confidential and privileged information of my employer or client beyond the term of my employment, except where their interests are contrary to law or to this code of ethics;
- (7) to cooperate with all recognized and responsible law enforcement and government agencies in matters within their jurisdiction;
- (8) to accept no compensation, commission, gratuity or other advantage without the knowledge and consent of my employer;
- (9) to conduct myself professionally at all times, and to perform my duties in a manner that reflects upon myself, my employer, and private security;
- (10) to strive to continually to improve my performance by seeking training and educational opportunities that will better prepare me for my private security duties.

C. Code of ethics for polygraph examiners.

- (1) I shall at all times conduct myself in a manner reflecting credit to the polygraph profession.
- (2) I shall deal fairly and impartially with all individuals, regardless of social, political, racial, religious, ethnic, economic or fraternal status.
- (3) I shall keep all decisions free of personal or any other extraneous influence and render unbiased opinion in all decisions.
- (4) I shall not publish misleading advertisements or claims concerning the polygraph profession. I shall advise each client or examinee of the infeasibility of conducting an examination where I encounter conditions or circumstances that so warrant.
- (5) I shall not conduct a polygraph examination of any person I have reason to believe may be mentally or physically unfit, without first seeking an opinion of medical, psychological or psychiatric authority, as appropriate, prior to testing.
- (6) I shall not include an opinion in any decision or report relating to medical, psychological, psychiatric, legal, or any other field in which I am not qualified.
- (7) I shall refrain from criticizing or maligning other polygraph examiners except as required by legal proceedings.
- (8) I shall not testify concerning polygraph charts of another examiner until I have satisfied the requirements of NM Rule of Evidence 11-707, NMRA 2004.
- (9) I shall support the professional goals of the polygraph profession at every opportunity.
- (10) I shall consider the integrity and goals of the polygraph profession above my personal desires and ambitions.

D. Polygraphy creed of conduct: To encourage uniformity of procedures, enhance the image of polygraphy, promote the welfare of the public, establish standards and promote an understanding among all polygraphers operating in the state of New Mexico, the following standards of principle are endorsed.

- (1) The primary goal of a polygraph examination is to assess truth or deception, respecting all rights of the examinee and using proper polygraph techniques and procedures.
- (2) No examinee will be compelled to take a polygraph examination except in compliance with existing law or terms of probation or parole. No force, threats, duress, coercion or promises will be made by a licensee in an effort to complete a polygraph examination.
- (3) A minimum of three charts is required to reach a conclusive diagnostic opinion in any polygraph examination conducted by a licensee.

(4) Inquiries into the personal life, sexual habits, political or religious principles, or any other aspects of one's life that are not connected to, or necessary for, addressing the issue concerned will not be made.

(5) Examinations addressing secondary aspects of an unresolved direct issue will not be made merely to avoid or circumvent addressing a primary issue or to satisfy the personal desires of the examinee or client.

(6) Information concerning polygraph examinations will not be released to unauthorized persons. This does not preclude consultation with other examiners, or testimony before legal proceeding or other duly constituted authority, or information requested by the department.

(7) It is the responsibility of each examiner to promote proper polygraph procedures. Knowledge of deliberate violations of the law governing polygraphy should be brought to the attention of the department and any relevant national professional association for consideration and action, if appropriate.

[16.48.1.8 NMAC - Re-pr, 16.48.1.8 NMAC, 9/24/2008]

16.48.1.9 SAVINGS CLAUSE: If any provision of these rules or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of these rules and the application of such provisions to other persons or circumstances shall not be affected thereby.

[16.48.1.9 NMAC - Re-pr, 16.48.1.9 NMAC, 9/24/2008]

16.48.1.10 PRACTICING WITHOUT A LICENSE: It is unlawful for an individual to:

A. act as a private investigator, private patrol operator, security guard, private investigations employee, private investigations manager or private patrol operations manager or private patrol operation employee to make any representation as being a licensee or registrant unless the individual is licensed by the department pursuant to the Private Investigations Act (Section 61-27B-1 NMSA 1978);

B. render physical protection for remuneration as a bodyguard unless the individual is licensed as a private investigator or a private patrol operator;

C. continue to act as a private investigator, private patrol operator, security guard, private investigations employee, private investigations manager, private patrol operations manager private patrol operation employee if the individual's license issued pursuant to the Private Investigations Act has expired or been suspended or revoked;

D. falsely represent that the individual is employed by a licensee; or

E. practice polygraphy for any remuneration without a license issued by the department in accordance with the Private Investigations Act.

[16.48.1.10 NMAC - Re-pr & A, 16.48.1.10 NMAC, 9/24/2008; A, 1/15/2019]

16.48.1.11 LICENSURE EXEMPTIONS:

A. As used in this section, "temporary" means a period of time not to exceed the duration of one private event or one school or nonprofit organization event, as described in Paragraphs (2) and (3) of Subsection B of this section.

B. The Private Investigations Act does not apply to:

(1) an individual employed exclusively and regularly by one employer in connection with the affairs of that employer, provided that the individual patrols or provides security only on the premises of the employer as limited by the employer;

(2) an individual employed exclusively to provide temporary security at a private event that is not open to the public;

(3) individuals providing temporary security at athletic or other youth events and where the events occur under the auspices of a public or private school or a nonprofit organization;

(4) an attorney licensed in New Mexico conducting private investigations while engaged in the practice of law;

(5) an officer or employee of the United States or this state or a political subdivision of the United States or this state while that officer or employee is engaged in the performance of the officer's or employee's official duties or an employee working exclusively on federal government property for a private patrol company contracting with the federal government and the security guard has training that exceeds state requirements unless the federal government contract requires state licensing;

(6) a person engaged exclusively in the business of obtaining and furnishing information concerning the financial rating of persons;

(7) a charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit;

(8) a licensed collection agency or an employee of the agency while acting within the scope of employment while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or the debtor's property;

(9) admitted insurers, adjusters, agents and insurance brokers licensed by the state performing duties in connection with insurance transactions by them; or

(10) an institution subject to the jurisdiction of the director of the financial institutions division of the department or the comptroller of currency of the United States.

[16.48.1.11 NMAC - Re-pr & A, 16.48.1.11 NMAC, 9/24/2008]

16.48.1.12 CUSTODY AND ALTERATION OF LICENSES:

A. Licenses and registrations issued by the department are at all times the property of the department, and may remain in the custody of the licensee or registrant only as long as the licensee or registrant complies with the act and department rules.

B. Licenses shall not be altered in any way.

C. Inspectors or board designees may retrieve any license which is suspended, revoked, expired, or left by a licensee who is no longer employed at an establishment.

[16.48.1.12 NMAC - Re-pr, 16.48.1.12 NMAC, 9/24/2008]

16.48.1.13 LICENSE NOT TRANSFERABLE; CHANGE IN OWNERSHIP OR MANAGEMENT; NAME CHOICE AND NAME CHANGE:

A. A license or registration issued by the department pursuant to the Private Investigations Act shall not be transferred or assigned.

B. A change of ownership or management of a private investigation company or private patrol company shall be filed with the department on an application form prescribed by the department, accompanied by the required fees, within 30 days following any such change. Failure to file for a change of a private investigation company or private patrol company within the 30 day period shall be grounds for termination of the license of a private investigation company or private patrol company.

C. A change in the name of a private investigation company or private patrol company shall require a name change application on a form provided by the department. A private investigation company or a private patrol company shall not conduct business under a fictitious name until the company has obtained the authorization for use of the name from the department. The department shall not authorize the use of a fictitious name that may generate public confusion with the name of a public officer or agency or the name of an existing private investigation company or private patrol company.

[16.48.1.13 NMAC - Re-pr, 16.48.1.13 NMAC, 9/24/2008]

16.48.1.14 DISPLAY OF LICENSE AND NOTIFICATION OF CHANGES:

A. A license shall at all times be posted in a conspicuous place in the New Mexico principal place of business of the licensee.

B. A copy of the registration of each registrant employed by a private investigation company or a private patrol company shall be maintained in the main New Mexico office of the company and in the branch office in which the registrant works.

C. A registration card issued by the department shall at all times be in the possession of and located on the person of a registrant when working.

D. A security guard shall wear the registration card on the outside of the guard's uniform so that the card is visible to others.

E. A licensee or a registrant shall notify the department immediately in writing of a change in the mailing or contact address of the licensee or registrant.

F. Failure to notify the department within 30 days of changes required to be reported pursuant to this section or failure to carry or display a registration as required is grounds for suspension of a license or registration.

[16.48.1.14 NMAC - Re-pr & A, 16.48.1.14 NMAC, 9/24/2008; A, 1/15/2019]

16.48.1.15 LOCAL REGULATIONS: The provisions of the Private Investigations Act (Section 61-27B-1 NMSA 1978) shall not prevent the local authorities of a city or county by ordinance and within the exercise of the

police power of the city or county from imposing local ordinances upon a street patrol special officer or on a person licensed or registered pursuant to the Private Investigations Act if the ordinances are consistent with that act.
[16.48.1.15 NMAC - Re-pr, 16.48.1.15 NMAC, 9/24/2008]

HISTORY OF 16.48.1 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

AG 68-1 (Rule No. IV), Private Patrol Operator Licenses, filed 4/3/1968.

AG 68-2 (Rule No. V), Private Investigator Licenses, filed 4/3/1968.

AG 69-2 (Rule No. VII), Private Investigators Licenses: Titles, filed 9/17/1969.

AG 70-2 (Rule No. VII), Private Investigators: Fictitious Names and Titles, filed 8/20/1970.

AG 69-3 (Rule No. VIII), Private Investigator Licenses: Interview of Applicant, filed 9/17/1969.

AG 70-3 (Rule No. VIII), Private Investigators: Interview of Applicant, filed 8/20/1970.

AG 70-5 (Rule No. X, Private Investigators: Alcohol Beverages, filed 8/20/1970.

AG 70-7 (Rule No. XII), Private Investigators: Deputy Sheriff Commissions, filed 11/19/1970.

AG 70-8 (Rule NO. XIII), Private Investigators: Cessation of Licensed Business, filed 11/19/1970

NMLEA Rule #30, Bureau of Private Investigators: Rules and Regulations, filed 4/24/1981.

NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations, filed 11/4/1983.

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 6/1/1981.

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 5/27/1983.

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 6/1/1981.

NMPA Rule 92-1, Authority, filed 8/17/1992; NMPA Rule 92-2, Definitions, filed 8/17/1992; NMPA Rule 92-11, Code of Ethics and Creed of Conduct, filed 8/17/1992 and NMPA Rule 92-13, Savings Clause, filed 8/17/1992 (by NM Polygraph Advisory Board).

History of Repealed Material:

NMLEA B/PI Rule #1 (filed 11/04/1983), repealed 03/07/2008.

NMPA Rule 92-1 (filed 8/17/1992); NMPA Rule 92-2 (filed 8/17/1992); NMPA Rule 92-6 (filed 8/17/1992);

NMPA Rule 92-11 (filed 8/17/1992); and NMPA Rule 92-13 (filed 8/17/1992), all repealed 03/07/2008.

This rule expired on July 5, 2008 which was 120 days after its emergency filing on March 7, 2008. The Uniform Licensing Act (Subsection A of Section 61-1-30 NMSA 1978) stipulates that emergency rules cannot remain in effect for more than 120 days unless they are replaced by permanent rules.

Other History:

Those applicable portions of NMLEA B/PI Rule #1 (filed 11/04/1983); NMPA Rule 92-1 (filed 8/17/1992); NMPA Rule 92-2 (filed 8/17/1992); NMPA Rule 92-6 (filed 8/17/1992); NMPA Rule 92-11 (filed 8/17/1992); and NMPA Rule 92-13 (filed 8/17/1992), renumbered, reformatted, and replaced by 16.48.1 NMAC, Private Law Enforcement Practitioners - General Provisions, effective 03/07/2008.

16.48.1 NMAC, Private Law Enforcement Practitioners - General Provisions (filed 3/7/2008) was replaced by 16.48.1 NMAC, Private Law Enforcement Practitioners - General Provisions, effective 9/24/2008.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 2 REQUIREMENTS FOR LICENSURE

16.48.2.1 ISSUING AGENCY: Regulation and Licensing Department, Private Investigations Advisory Board.

[16.48.2.1 NMAC - Re-pr, 16.48.2.1 NMAC, 9/24/2008]

16.48.2.2 SCOPE: All individuals and business entities that apply for licensure under the Private Investigations Act.

[16.48.2.2 NMAC - Re-pr, 16.48.2.2 NMAC, 9/24/2008]

16.48.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Sections 61-27B-7, 61-27B-8, 61-27B-9, 61-27B-10, 61-27B-11, 61-27B-12, 61-27B-13, 61-27B-14, 61-27B-15, 61-27B-16, 61-27B-17, 61-27B-18, 61-27B-19, 61-27B-24, 61-27B-31 and 61-27B-35 NMSA 1978.

[16.48.2.3 NMAC - Re-pr, 16.48.2.3 NMAC, 9/24/2008]

16.48.2.4 DURATION: Permanent.

[16.48.2.4 NMAC - Re-pr, 16.48.2.4 NMAC, 9/24/2008]

16.48.2.5 EFFECTIVE DATE: September 24, 2008 unless a later date is cited in the history note at the end of a section.

[16.48.2.5 NMAC - Re-pr & A, 16.48.2.5 NMAC, 9/24/2008]

16.48.2.6 OBJECTIVE: To establish the procedures and outline the documents and information necessary to complete the application process for licensure.

[16.48.2.6 NMAC - Re-pr, 16.48.2.6 NMAC, 9/24/2008]

16.48.2.7 DEFINITIONS: Please refer to 16.48.1.7 NMAC in addition to the definitions within this part.

A. "Chemical agents" means tear gas or any other certifiable non-lethal chemical agents used for the intent to restrain and control unruly or combative subjects for the purposes of safety to the security officer and the public.

B. "Defensive impact tools" means straight baton, expandable baton, side handle baton or other defensive impact tools used for the intent to restrain and control unruly or combative subjects for the purposes of safety to the security officer and the public.

C. "Electronic non-lethal devices" means tasers or other certifiable devices used for the intent to restrain and control unruly or combative subjects for the purposes of safety to the security officer and the public.

D. "One-year verifiable training" means proof of experience that has been acquired within the five years preceding the filing of the application with the department which shall consist of not less than 1,000 hours of actual work performed in the respective area of licensure or registration sought after.

E. "Restraint and control devices" means handcuffs or similar certifiable devices used for the intent to restrain and control unruly or combative subjects for the purposes of safety to the security officer and the public.

[16.48.2.7 NMAC - Re-pr & A, 16.48.2.7 NMAC, 9/24/2008; A, 1/15/2015; A, 1/15/2019]

16.48.2.8 BOND AND GENERAL LIABILITY INSURANCE REQUIREMENT:

A. All private investigators, private patrol operators and private investigation companies seeking to obtain or retain a license under the provisions of the Private Investigations Act shall file with the department and retain in full force and effect, a surety bond in the amount of ten thousand dollars (\$10,000) executed by a surety company authorized to do business in this state on a form prescribed by the department.

B. The owner or the chief executive officer of a private investigation company or private security company that provides personal protection or bodyguard services or the owner or the chief executive office of a private patrol company shall maintain a general liability certificate of insurance in the amount of not less than one million dollars (\$1,000,000).

C. A surety bond in the amount of ten thousand dollars (\$10,000) or a general liability certificate of insurance executed and filed with the department pursuant to the Private Investigations Act shall remain in force until the surety company issuing the bond or the certificate has terminated future indemnity by notice to the department.

D. Any failure to furnish and maintain such bond in such form shall be grounds for denial or revocation of any license of a private investigator, private patrol operator, or private investigation company.

E. In the event a bond is offered which varies from the department form the department shall determine whether bond is in substantial conformance with the Private Investigations Act and department rules.

F. The duration of each bond shall, unless sooner terminated in accordance with law, be for the term of the term of the license issued as set forth on the face thereof and 30 days thereafter.

G. Such bond shall also be filed and maintained for each period of renewal of license and the duration thereof shall be for the renewal period specified on the face of the license and 30 days thereafter.

H. Any claim filed or made against any private investigator, private patrol operator, or private investigation company shall be reported by him forthwith to his surety company.

I. Upon receipt of notice of any claim made against any private investigator, private patrol operator, or private investigation company the surety insurance company bonding such private investigator, private patrol operator, or private investigation company shall forthwith report the same to the department.

J. All complaints filed, judgments rendered or injunctions issued, whether temporary or final, against any private investigator, private patrol operator, private investigation company or their surety insurance company shall be reported to department, within 10 days after receipt of the same by such private investigator, private patrol operator, private investigation company, surety company, or their agents, attorneys, or employees, together with the name of the court where filed and the name and address of the attorney for claimant, or the claimant if he has no attorney.

K. A private investigator or private patrol operator or private investigation company or licensee or registrant shall furnish the department with any information requested by the department pursuant to a claim or complaint or suit filed alleging a violation of any rule or statute governing private investigators, private patrol operators, private investigation companies, licensees or registrants when requested to do so by the department. Failure to comply with this request may result in disciplinary action. No payment may be made by a surety insurance company pursuant to a claim or complaint filed with the department unless the department directs such payment to be made.

L. The failure to furnish such notice of claims or suits or such information shall be deemed sufficient to revoke or suspend any license of a private investigator, private patrol operator or private investigation company or to deem any bond for such private investigator, private patrol operator or private investigation company insufficient.

M. The department may determine that any claim made or suit filed against any private investigator, private patrol operator or private investigation company has reduced the amount of the bond of such investigator, patrol operator or private investigation company in full force and effect to such extent as the department shall, in its discretion, determine. Any judgment obtained against any private investigator or private patrol operator or private investigation company or their surety insurance company shall be deemed to reduce the amount of their bond insurance in full force and effect by the amount of the judgment. In the event the amount of the bond in full force and effect shall be so reduced, such private investigator or private patrol operator or private investigation company shall, within 10 days, file a new or supplemental bond insurance sufficient to meet the requirements of law as to the amount of bond insurance in full force and effect.

N. If any claim is made or suit filed against any private investigator or private patrol operator or private investigation company for his actions, or the actions of any of his employees, and any portion of such act or acts as a private investigator or private patrol operator or private investigation company took place or occurred during the period for which a bond was in force, such surety shall be deemed liable for the whole of such claim to the extent of the total amount of the bond, provided that if more than one bond was in effect during the performance of all or any part of such acts, the liability shall be pro-rated among such sureties.

[16.48.2.8 NMAC - Re-pr & A, 16.48.2.8 NMAC, 9/24/2008; A, 1/15/2019]

16.48.2.9 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE INVESTIGATOR LICENSE:

A. Applicants for licensure as a private investigator must submit the following:

- (1) completed application;
- (2) proof of age indicating applicant is at least 21 years of age (copy of birth certificate, driver's license, state issued identification card, military identification, U.S. passport or baptismal certificate);

- (3) proof of successfully passing a jurisprudence examination to be administered by the department;
- (4) a surety bond in the amount of ten thousand dollars (\$10,000) executed by a surety company authorized to do business in this state on a form prescribed by the department; however, private investigators who provide personal protection or bodyguard services shall maintain general liability insurance in the amount not less than one million dollars (\$1,000,000) in lieu of the surety bond required by the provisions of this paragraph;
- (5) proof of experience that has been acquired within the five years preceding the filing of the application with the department which shall consist of not less than 6,000 hours of actual work performed in:
 - (a) investigation for the purpose of obtaining information with reference to a crime or wrongs done or threatened against the United States;
 - (b) investigation of persons;
 - (c) the location, disposition or recovery of lost or stolen property;
 - (d) the cause or responsibility for fire, losses, motor vehicle or other accidents or damage or injury to persons or property; or
 - (e) securing evidence to be used before a court, administrative tribunal, board or investigating committee or for a law enforcement officer;
- (6) non-refundable license fee as set forth in Part 5; and
- (7) criminal history background check as set forth in Subsection C of 16.48.2.9 NMAC.

B. Years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from employers on a form provided by the department and shall be subject to independent verification by the department as it deems warranted. In the event of inability of applicants to supply such written certifications from employers in whole or in part, applicants may offer other written certifications from others than employers covering the same subject matter for consideration by the department. The burden of proving necessary experience is on the applicant.

C. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance, reinstatement or renewal of a private investigator license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check.

- (1) Fingerprints shall be taken:
 - (a) under the supervision of and certified by a New Mexico state police officer, a county sheriff, or a municipal chief of police;
 - (b) by comparable officers in the applicant's state of residence if the applicant is not a resident of New Mexico; or
 - (c) at the discretion of the department, by a private agency or individual qualified to take and certify fingerprints, provided the agency submits to the department written authorization or proof of training from any of the agencies referenced in Subparagraphs (a) and (b) above.
- (2) Completed fingerprint cards shall be submitted to the department or department designee with a check, money order, or cashier's check for the prescribed fee.

D. Proof of successfully completing mandatory firearms training required by 16.48.4.8 NMAC. [16.48.2.9 NMAC - Re-pr & A, 16.48.2.9 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019]

16.48.2.10 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE INVESTIGATION COMPANY LICENSE:

- A.** Applicants for licensure as a private investigation company must submit the following:
 - (1) completed application;
 - (2) a surety bond in the amount of ten thousand dollars (\$10,000); however, private investigators who provide personal protection or bodyguard services shall maintain general liability insurance as specified in the Private Investigations Act in lieu of the surety bond required by the provisions of this paragraph; a private investigator or private patrol operator holding a certificate of deposit or surety bond prior to July 1, 2007 in the sum of two thousand dollars (\$2,000) shall be exempt from the bond provisions of the Private Investigations Act, provided that the private investigator's or private patrol operator's license remains current and the holder remains in good standing with the regulation and licensing department;
 - (3) proof of an owner or a licensed private investigations manager who is licensed as a private investigator and who certifies that they will manage the daily operations of the private investigation company;

(4) proof of a physical location in New Mexico where records are maintained and made available for department inspection;

(5) proof of a New Mexico registered agent if the applicant is a private investigation company located outside of New Mexico;

(6) non-refundable license fee as set forth in Part 5; and

(7) criminal history background check as set forth in Subsection C of 16.48.2.10 NMAC.

B. The owner or the chief executive officer of a private investigation company that provides personal protection or bodyguard services shall provide proof of an active and current general liability certificate of insurance in the amount of no less than one million dollars (\$1,000,000).

C. Pursuant to Section 61-27B-34 of the act, all applicants for initial issuance, reinstatement or renewal of a private investigation company license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check. A legal business entity must submit a fingerprint packet for each owner, and officers or directors.

(1) Fingerprints shall be taken:

(a) under the supervision of and certified by a New Mexico state police officer, a county sheriff, or a municipal chief of police;

(b) by comparable officers in the applicant's state of residence if the applicant is not a resident of New Mexico; or

(c) at the discretion of the department, by a private agency or individual qualified to take and certify fingerprints, provided the agency submits to the department written authorization or proof of training from any of the agencies referenced in Subparagraphs (a) and (b) above.

(2) Completed fingerprint cards shall be submitted to the department or designee with a check, money order, or cashier's check for the prescribed fee.

[16.48.2.10 NMAC - Re-pr & A, 16.48.2.10 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019]

16.48.2.11 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE INVESTIGATIONS MANAGER LICENSE: Applicants for licensure as a private investigations manager license must submit the following:

A. proof of a current license in good standing as a private investigator;

B. proof of successfully passing a jurisprudence examination to be administered by the department;

C. proof of employment with the private investigation company that the applicant is being licensed to manage;

D. completed application;

E. non-refundable license fee as set forth in Part 5;

F. pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance or reinstatement of a private investigations manager license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check;

(1) fingerprints shall be taken:

(a) under the supervision of and certified by a New Mexico state police officer, a county sheriff, or a municipal chief of police;

(b) by comparable officers in the applicant's state of residence if the applicant is not a resident of New Mexico; or

(c) at the discretion of the department, by a private agency or individual qualified to take and certify fingerprints, provided the agency submits to the department written authorization or proof of training from any of the agencies referenced in Subparagraphs (a) and (b) above;

(2) completed fingerprint cards shall be submitted to the department or designee with a check, money order, or cashier's check for the prescribed fee.

[16.48.2.11 NMAC - Re-pr & A, 16.48.2.11 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019]

16.48.2.12 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE INVESTIGATIONS EMPLOYEE REGISTRATION:

A. On or after July 1, 2007, every individual who seeks employment or is currently employed as a private investigations employee or who provides services on a contract basis to a private investigation company shall file an application for registration as a private investigations employee with the department.

B. Applicants for registration as a private investigations employee must submit the following:

(1) completed application;

- (2) non-refundable registration fee as set forth in Part 5;
- (3) proof of age indicating applicant is at least 21 years of age (copy of birth certificate, driver's license, state issued identification card, military identification, U.S. passport or baptismal certificate);
- (4) proof of a high school diploma or its equivalent;
- (5) proof of successfully passing a jurisprudence examination to be administered by the board;
- (6) proof of employment or contract with a private investigation company to provide investigation services for, a private investigation company, under the direct control and supervision of a private investigator; and
- (7) criminal history background check as set forth in Subsection C of 16.48.2.12 NMAC.

C. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance or reinstatement of a private investigations employee registration in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check.

- (1) Fingerprints shall be taken:
 - (a) under the supervision of and certified by a New Mexico state police officer, a county sheriff, or a municipal chief of police;
 - (b) by comparable officers in the applicant's state of residence if the applicant is not a resident of New Mexico; or
 - (c) at the discretion of the department, by a private agency or individual qualified to take and certify fingerprints, provided the agency submits to the department written authorization or proof of training from any of the agencies referenced in Subparagraphs (a) and (b) above.

(2) Completed fingerprint cards shall be submitted to the department or designee with a check, money order, or cashier's check for the prescribed fee.

D. Proof of successfully completing mandatory firearms training required by 16.48.4.8 NMAC. [16.48.2.12 NMAC - Re-pr & A, 16.48.2.12 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019]

16.48.2.13 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE PATROL OPERATOR LICENSE:

- A. Applicants for licensure as a private patrol operator must submit the following:
- (1) proof of age indicating applicant is at least 21 years of age (copy of birth certificate, driver's license, state issued identification card, military identification, U.S. passport or baptismal certificate);
 - (2) completed application;
 - (3) proof of successfully passing a jurisprudence examination to be administered by the department;
 - (4) proof of experience of actual work performed as a security guard consisting of not less than 4,000 hours of actual work performed as a guard, watchman, or patrolman or an equivalent position, one year of which shall have been in a supervisory capacity; the experience shall have been acquired within five years preceding the filing of the application with the department; years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from the applicant's employers and shall be subject to independent verification by the department as it determines is warranted; the burden of proving necessary experience is on the applicant;
 - (5) proof of being firearm certified as required by 16.48.4.8 NMAC, if the position will require being armed with a firearm;
 - (6) non-refundable application fee as set forth in Part 5; and
 - (7) criminal history background check as set forth in Subsection C of 16.48.2.13 NMAC.

B. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance, reinstatement or renewal of a private patrol operator license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check.

- (1) Fingerprints shall be taken:
 - (a) under the supervision of and certified by a New Mexico state police officer, a county sheriff, or a municipal chief of police;
 - (b) by comparable officers in the applicant's state of residence if the applicant is not a resident of New Mexico; or
 - (c) at the discretion of the department, by a private agency or individual qualified to take and certify fingerprints, provided the agency submits to the department written authorization or proof of training from any of the agencies referenced in Subparagraphs (a) and (b) above.

(2) Completed fingerprint cards shall be submitted to the department or designee with a check, money order, or cashier's check for the prescribed fee.

[16.48.2.13 NMAC - Re-pr & A, 16.48.2.13 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019]

16.48.2.14 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE PATROL COMPANY LICENSE:

- A. Applicants for licensure as a private patrol company must submit the following:
- (1) completed application;
 - (2) proof of an owner or a licensed private patrol operations manager who certifies they will manage the daily operations of the private patrol company;
 - (3) proof of a physical location in New Mexico where records are maintained and made available for department inspection;
 - (4) proof of a New Mexico registered agent if the applicant is a private patrol company located outside of New Mexico; and
 - (5) criminal history background check as set forth in Subsection C of 16.48.2.14 NMAC.
- B. The owner or the chief executive officer of a private patrol company shall provide proof of a current and active general liability certificate of insurance in an amount not less than one million dollars (\$1,000,000).

C. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance, reinstatement or renewal of a private patrol company license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check. A legal business entity must submit a fingerprint packet for each owner, and officers or directors.

- (1) Fingerprints shall be taken:
- (a) under the supervision of and certified by a New Mexico state police officer, a county sheriff, or a municipal chief of police;
 - (b) by comparable officers in the applicant's state of residence if the applicant is not a resident of New Mexico; or
 - (c) at the discretion of the department, by a private agency or individual qualified to take and certify fingerprints, provided the agency submits to the department written authorization or proof of training from any of the agencies referenced in subparagraphs (a) and (b) above.

(2) Completed fingerprint cards shall be submitted to the department or designee with a check, money order, or cashier's check for the prescribed fee.

[16.48.2.14 NMAC - Re-pr & A, 16.48.2.14 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019]

16.48.2.15 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A PRIVATE PATROL OPERATIONS MANAGER LICENSE: Applicants for licensure as a private patrol operations manager must submit the following:

- A. proof of a current license in good standing as a private patrol operator or a registration as a level three security guard;
- B. proof of successfully passing a jurisprudence examination to be administered by the department;
- C. proof of employment with the private patrol company that the applicant is being licensed to manage;
- D. completed application; and
- E. non-refundable application fee as set forth in Part 5.

[16.48.2.15 NMAC - Re-pr & A, 16.48.2.15 NMAC, 9/24/2008; A, 5/1/2010]

16.48.2.16 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A POLYGRAPH EXAMINER LICENSE:

- A. Applicants for licensure as a polygraph examiner must submit the following:
- (1) proof of age indicating applicant is at least 18 years of age (copy of birth certificate, driver's license, state issued identification card, military identification, U.S. passport or baptismal certificate);
 - (2) completed application;
 - (3) proof of a high school diploma or its equivalent;
 - (4) proof of graduation from an accredited polygraph examiners course approved by the department;
 - (5) proof of:

(a) completing a probationary operational competency period and passing an examination of ability approved by the department to practice polygraphy; or

(b) holding, for a minimum of two years immediately preceding the date of application, a current active license to practice polygraphy in another jurisdiction whose standards are equal to or greater than those in New Mexico; the applicant must have no pending disciplinary actions and no formal disciplinary actions issued against the license in the last five years;

(6) non-refundable application fee as set forth in Part 5; and

(7) criminal history background check as set forth in Subsection C of 16.48.2.16 NMAC.

B. Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance, reinstatement or renewal of a polygraph examiner license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check.

(1) Fingerprints shall be taken:

(a) under the supervision of and certified by a New Mexico state police officer, a county sheriff, or a municipal chief of police;

(b) by comparable officers in the applicant's state of residence if the applicant is not a resident of New Mexico; or

(c) at the discretion of the department, by a private agency or individual qualified to take and certify fingerprints, provided the agency submits to the department written authorization or proof of training from any of the agencies referenced in Subparagraphs (a) and (b) of Paragraph (2) of this subsection.

(2) Completed fingerprint cards shall be submitted to the department or designee with a check, money order, or cashier's check for the prescribed fee.

C. Probationary operational competency period.

(1) Under successful completion of a written examination, a provisional license may be issued.

(2) During the probationary period, consisting of at least six months, the polygraph examinations administered by the provisional licensee shall be reviewed for operational competency by a licensed polygraph examiner appointed by a board member or the superintendent to serve as a sponsor for the provisional licensee. During the probationary period, the provisional licensee must conduct a minimum of 30 polygraph examinations, a minimum of five of which must be examinations, two of the "specific" examinations, and three of the "screening type" examinations must be performed in the presence of his or her sponsor, or recorded in their entirety for review by the sponsor or the board member. In the case of an applicant who conducts only "specific" examinations, a minimum of five "specific" examinations must be conducted in the presence of his or her sponsor, or recorded in their entirety for review by the sponsor or the board member.

(3) The sponsor appointed shall submit a progress report regarding the progress of the provisional licensee every 60 days on forms provided by the board.

(4) If an unsatisfactory report is submitted, the board member shall review the polygraph examinations administered by the provisional licensee for operational competency. Upon such review, the board member at his or her discretion may revoke the provisional license or take such action as it deems necessary to assure operational competency. Any revocations under this subsection shall be subject to the Uniform Licensing Act, Section 61-1-1 et. seq., NMSA 1978 Comp.

(5) The board member may at any time review the polygraph examinations administered by the provisional licensee for operational competency for any reason.

[16.48.2.16 NMAC - Re-pr & A, 16.48.2.16 NMAC, 9/24/2008; A, 08/30/09; A, 5/1/2010; A, 1/15/2019]

16.48.2.17 LEVEL ONE SECURITY GUARD APPLICANT QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:

A. Every individual seeking employment or employed as a level one security guard shall file an application for registration with the department.

B. Applicants for registration as a level one security guard shall submit the following:

(1) completed application with two passport type photos taken within the prior six months;

(2) non-refundable registration fee as defined in 16.48.5 NMAC;

(3) proof of age indicating applicant is at least 18 years of age (copy of driver's license, state issued identification card, military identification, baptismal certification or U.S. passport);

(4) achievement of a passing score of not less than ninety percent on the board approved jurisprudence examination, provided by the board, covering the Private Investigations Act and the rules;

(5) department's release of information form; and

(6) proof of completing a department approved training program as defined in Subsection D of 16.48.2.17 NMAC prior to being placed on a guard post for the first time as a level one security guard; that training may be provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act (21-23-1 NMSA 1978);

(b) an in-house training program provided by a licensed private patrol company using a curriculum provided by the department and taught by an instructor who has been reviewed and recommended by the board and approved by the superintendent; or

(c) any other department-approved educational institution using a curriculum approved by the department and taught by an instructor who has been reviewed and recommended by the board and approved by the superintendent.

C. BACKGROUND CHECK: Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance, reinstatement or renewal of a level one security guard registration in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check.

(1) All applicants for licensure or registration shall be fingerprinted electronically as required for submission to the federal bureau of investigation to conduct a national criminal history investigation and for submission to the department of public safety to conduct a state criminal history investigation.

(2) Initial and renewal applicants will need to register on-line with the agent for New Mexico department of public safety prior to going to an electronic fingerprinting location:

(a) at the electronic fingerprinting location, the applicant will need to provide the electronic fingerprinting technician with a registration number they received after registering online;

(b) a designated fee determined by the New Mexico department of public safety shall be paid at the time of registration by credit card or at the fingerprinting site by cashier's check or money order; and

(c) fingerprint results will be sent electronically to the department.

D. TRAINING REQUIREMENTS: The following eight hour curriculum is the minimum training required and must be completed within twelve months prior to application for security guard level one registration. The training shall be taught by a department approved instructor that has been recommended by the board and approved by the superintendent. Training shall be taught by an in-person instructor;

(1) legal training for security guards;

(a) legal responsibilities, qualifications, restrictions and liability of level one security guard;

(b) introduction to use of force continuum, appropriate use of force and de-escalation techniques;

(c) appropriate search and seizure, legal restrictions and civil liability, and;

(d) New Mexico laws on trespass pursuant to the act, Section 30-14-1 NMSA 1978;

(2) authority and responsibility of the security guard;

(a) communication with local law enforcement;

(b) radio dispatch protocol and other communication tools;

(c) image, professional communication, note-taking and report writing;

(3) incident scene management and preservation;

(a) identifying evidence;

(b) care and handling of evidence;

(c) securing the immediate area, and;

(d) witness/participant identification.

[16.48.2.17 NMAC - Re-pr & A, 16.48.2.17 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2015; A, 1/15/2019]

16.48.2.18 LEVEL TWO SECURITY GUARD APPLICANT QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:

A. Every individual seeking employment or employed as a level two security guard shall file an application for registration with the department. To carry a specific endorsement weapon, not including a firearm, will require successful completion of the specific weapon curriculum as defined in Subsection E of 16.48.2.18 NMAC.

B. Applicants for registration as a level two security guard shall submit the following:

- (1) completed application with two passport type photos taken within the prior six months;
- (2) non-refundable registration fee as defined in 16.48.5 NMAC;
- (3) proof of age indicating applicant is at least 21 years of age (copy of driver's license, state issued identification card, military identification, baptismal certification or U.S. passport);
- (4) proof of a current registration in good standing as a level one security guard or proof of completing department approved level one security guard training;
- (5) achievement of a passing score of not less than ninety percent on the board approved jurisprudence examination, provided by the board, covering the Private Investigations Act and the rules;
- (6) proof of a high school diploma or its equivalent;
- (7) department's release of information form; and
- (8) proof of completing a department approved weapon training program as defined in Subsection D of 16.48.2.18 NMAC for level two security guard training prior to being placed on a guard post for the first time as a level two security guard; that training may be provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act (21-23-1 NMSA 1978);

(b) an in-house training program provided by a licensed private patrol company using a curriculum provided by the department and taught by an instructor who has been reviewed and recommended by the board and approved by the superintendent;

(c) the New Mexico law enforcement academy; or

(d) any other department-approved educational institution using a curriculum approved by the department and taught by an instructor who has been reviewed and recommended by the board and approved by the superintendent.

C. BACKGROUND CHECK: Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance or reinstatement of a level two security guard registration in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check.

(1) All applicants for licensure or registration shall be fingerprinted electronically as required for submission to the federal bureau of investigation to conduct a national criminal history investigation and for submission to the department of public safety to conduct a state criminal history investigation.

(2) Initial and renewal applicants will need to register on-line with the agent for New Mexico department of public safety prior to going to an electronic fingerprinting location:

(a) at the electronic fingerprinting location, the applicant will need to provide the electronic fingerprinting technician with a registration number they received after registering online;

(b) a designated fee determined by the New Mexico department of public safety shall be paid at the time of registration by credit card or at the fingerprinting site by cashier's check or money order; and

(c) fingerprint results will be sent electronically to the department.

D. TRAINING REQUIREMENTS: The following 20 hour curriculum is the minimum training required and must be completed within twelve months prior to application for security guard level two registration. The training shall be taught by a department approved instructor that has been recommended by the board and approved by the superintendent. Training shall be taught by an in-person instructor:

(1) legal and practical aspects of use of force and personal/employer liability;

(2) verbal and written communication and conflict management;

(3) restraint and control devices training shall include, but not be limited to, the following subjects:

(a) handcuffing nomenclature;

(b) daily maintenance and safety checks;

(c) applying and removing handcuffs;

(d) potentially uncooperative and uncooperative handcuffing;

(e) handcuffing from control holds;

(f) handcuffing from standing and prone;

(g) dangers of positional asphyxia and excited delirium;

(h) standing a prone handcuffed subject;

(i) conflict resolution;

(j) handcuffing guidelines and best practice; and

- (k) use of force and justification for handcuffing;
- (4) defensive impact tools training shall include, but not be limited to, the following subjects:
 - (a) moral and legal aspects of baton usage;
 - (b) use of force;
 - (c) baton familiarization and uses;
 - (d) first aid for baton injuries;
 - (e) fundamentals of baton injuries;
 - (f) stances and grips;
 - (g) target areas;
 - (h) defensive techniques;
 - (i) control techniques;
 - (j) arrest and control techniques, and;
 - (k) skill practice;
- (5) chemical agents training shall include, but not be limited to the following subjects:
 - (a) effects of chemical agents;
 - (b) avoiding bad positions;
 - (c) disengagement;
 - (d) proper defensive positions;
 - (e) shielding;
 - (f) drawing techniques;
 - (g) defense against moving attacks;
 - (h) spraying techniques;
 - (i) using OC spray with light;
 - (j) multiple opponent defense;
 - (k) proper weapon retention and disarming;
 - (l) cautions and hazards;
 - (m) recovery and decontamination;
 - (n) functioning when contaminated, and;
 - (o) storage and maintenance;

E. ADDITIONAL ENDORSEMENTS: An applicant for weapon endorsement must successfully complete training for the specific weapon endorsement. The following endorsement for level two applicants; eight hour electronic non-lethal device training shall include, but is not limited to, the following subjects:

- (1) technology overview ;
- (2) electrical and medical background;
- (3) specifications how electronic non-lethal devices work;
- (4) practical hands-on training;
- (5) changing batteries and air cartridges;
- (6) firing drills;
- (7) drive stun;
- (8) tactical considerations;
- (9) field applications
- (10) safety considerations and associated risks; and
- (11) how an electronic non-lethal device overrides the central nervous system.

[16.48.2.18 NMAC - Re-pr & A, 16.48.2.18 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2015; A, 1/15/2019]

16.48.2.19 LEVEL THREE SECURITY GUARD APPLICANT QUALIFICATIONS AND EXPERIENCE REQUIREMENTS:

A. Every individual seeking employment or employed as a level three security guard or level three armored vehicle security guard shall file an application for registration with the department.

B. Applicants for registration as a level three security guard shall submit the following:

- (1) completed application with two passport type photos taken within the prior six months;
- (2) non-refundable registration fee as defined in 16.48.5 NMAC;
- (3) proof of age indicating applicant is at least 21 years of age (copy of driver's license, state issued identification card, military identification, baptismal certification or U.S. passport);
- (4) copy of a current registration in good standing as a level two security guard or proof of completing department approved level one and level two security guard training;

(5) achievement of a passing score of not less than ninety percent on the board approved jurisprudence examination, provided by the board, covering the Private Investigations Act and the rules;

(6) proof of a high school diploma or its equivalent;

(7) department's release of information form;

(8) proof of completing a department approved firearm training program as defined in Subsection C of 16.48.2.19 NMAC prior to being placed on a guard post for the first time as a level three security guard; that training must be provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act;

(b) an in-house training program provided by a licensed private patrol company using a curriculum provided by the department and taught by an instructor who has been reviewed and recommended by the board and approved by the superintendent;

(c) the New Mexico law enforcement academy; or

(d) any other department-approved educational institution using a curriculum approved by the department and taught by an instructor who has been reviewed and recommended by the board and approved by the superintendent;

(9) proof of being firearm certified by an instructor recognized and certified by the New Mexico law enforcement academy or the national rifle association (NRA) law enforcement activities division;

(10) proof of level two weapon endorsement or proof of completing department approved weapon training as defined in Subsection E of 16.48.2.18 NMAC; and

(11) successful completion of a psychological evaluation as prescribed by the department to determine suitability for carrying firearms.

C. PSYCHOLOGICAL EVALUATION

(1) **Requirements:** Prior to certification as a level three security guard in the state of New Mexico, upon initial licensure only, it shall be necessary for each applicant to be examined by a licensed psychologist regarding the individual's mental suitability to carry a firearm within the individual's scope of duty as a licensed level three security guard. A list of licensed psychologists who are able to administer the exam will be available on the website or from the board office.

(a) All psychological evaluations shall be on a form provided by the department and must state if the applicant is recommended or not recommended to carry a firearm. If an applicant is not recommended to carry a firearm, the psychologist shall specify the reason(s) the applicant is not recommended to carry a firearm.

(b) Evaluations cannot be more than one year old for certification purposes.

(c) The original evaluation form shall be signed and transmitted directly to the board by the psychologist that performed the psychological evaluation

(d) The willful providing of false information or willful failure to disclose information that the applicant knows or should have known is necessary to a complete and accurate evaluation shall be grounds for denial of licensure.

(2) **Evaluation standards:** The psychological evaluation shall consist of the Minnesota multi-phasic inventory-2 restructured form or MMPI-2RF. The report shall incorporate all information gathered in the interview and testing, and shall contain a specific recommendation on a form provided by the department as to the applicant's suitability to carry a fire arm as a level three security guard. All psychologists performing evaluations must be licenses and conform to the guidelines of the American psychological association regarding storage of records.

D. FIREARM TRAINING: The following 16 hour curriculum, to include the laws pertaining to firearms and deadly physical force, is the minimum training required and must be completed within twelve months prior to application for security guard level three registration. The training shall be taught by a department approved instructor that has been recommended by the board and approved by the superintendent. Training shall be taught by an in-person instructor:

- (1) the four general firearms safety rules;
- (2) weapon manipulation;
- (3) types of sidearms;
- (4) firearm retention and equipment;
- (5) firearm storage devices;
- (6) locking devices;
- (7) ammunition and storage;

- (8) training household members;
- (9) hazards of loaded firearms in the home;
- (10) mental conditioning and tactics;
- (11) weapon manipulation and marksmanship;
- (12) threat recognition and judgmental shooting;
- (13) laws pertaining to firearms, deadly physical force and the exercise of the powers of arrest.

E. **BACKGROUND CHECK:** Pursuant to Section 61-27B-34 of the act, NMSA 1978, all applicants for initial issuance or reinstatement of a level three security guard registration in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check.

(1) All applicants for licensure or registration shall be fingerprinted electronically as required for submission to the federal bureau of investigation to conduct a national criminal history investigation and for submission to the department of public safety to conduct a state criminal history investigation.

(2) Initial and renewal applicants will need to register on-line with the agent for New Mexico department of public safety prior to going to an electronic fingerprinting location:

(a) at the electronic fingerprinting location, the applicant will need to provide the electronic fingerprinting technician with a registration number they received after registering online;

(b) a designated fee determined by the New Mexico department of public safety shall be paid at the time of registration by credit card or at the fingerprinting site by cashier's check or money order; and

(c) fingerprint results will be sent electronically to the department.

[16.48.2.19 NMAC - Re-pr & A, 16.48.2.19 NMAC, 9/24/2008; A, 11/28/2009; A, 5/1/2010; A, 1/15/2015; A, 1/15/2019]

16.48.2.20 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR SECURITY GUARD

INSTRUCTOR REGISTRATIONS: On or after February 28, 2015, every individual seeking to be an approved training instructor, shall complete an application for approval on a form provided by the department. The application shall include, but not be limited to, all of the following information:

A. electronic fingerprints to establish positive identification for a state and federal criminal history background check;

(1) All applicants for licensure or registration shall be fingerprinted electronically as required for submission to the federal bureau of investigation to conduct a national criminal history investigation and for submission to the department of public safety to conduct a state criminal history investigation.

(2) Initial and renewal applicants will need to register on-line with the agent for New Mexico department of public safety prior to going to an electronic fingerprinting location:

(a) at the electronic fingerprinting location, the applicant will need to provide the electronic fingerprinting technician with a registration number they received after registering online;

(b) a designated fee determined by the New Mexico department of public safety shall be paid at the time of registration by credit card or at the fingerprinting site by cashier's check or money order; and

(c) fingerprint results will be sent electronically to the department; and

B. Proof of professional training specific to each level of instructor registration applied for;

(1) Level One Instructor: On or after February 28, 2015, every individual seeking to be an approved training instructor for level one security guards, an individual shall submit proof of instructor certification issued by a law enforcement academy (LEA), federal government entity, military or the federal law enforcement training center (FLETC) or one year of verifiable training experience or the equivalent thereof to be reviewed and recommended by the board and approved by the superintendent; or

(2) Level Two Instructor: On or after February 28, 2015, every individual seeking to be a level two security guard instructor, offering training in chemical agents, defensive impact tools, restraint and control devices or electronic non-lethal devices, the application shall provide proof of level one instructor requirements and, proof of the specific weapon instructor certification issued by the weapon manufacturer or one year of verifiable weapons training or training experience or the equivalent thereof to be reviewed and recommended by the board and approved by the superintendent; or

(3) Level Three Instructor: On or after February 28, 2015, every individual seeking to be a level three security guard instructor offering training in firearms and deadly physical force, an individual shall submit proof of instructor certification issued by a law enforcement academy (LEA), federal government entity,

military or the federal law enforcement training center (FLETC), the national rifle association law enforcement activities division or one year of verifiable training experience or the equivalent thereof to be reviewed and recommended by the board and approved by the superintendent. If the level three training instructor offers firearms certification, proof of the instructor's current certification by the department is required.
[16.48.2.20 NMAC - N, 1/15/2019]

16.48.2.21 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR APPLICANTS FOR A SPECIAL EVENT PERMIT:

A. A private patrol company employing a nonresident security guard temporarily for a special event shall apply to the department for and may be issued a special event permit for each nonresident security guard qualified to be employed at the special event.

B. A special event permit is issued for a specific nonresident security guard and a specific special event and shall not be transferred to another security guard or used for a special event other than for the special event for which the permit is issued.

C. To be issued a special event permit, a private patrol company shall provide the department with a description of the special event, its location and the dates on which the temporary nonresident security guard will be employed to provide services at the special event. A special event permit shall bear the name of the private patrol company and contact information, the name of the nonresident security guard, the name of the special event for which it is issued, the dates of the special event and other pertinent information required by the department.

D. A special event permit shall be issued only to an individual who qualifies for a level one or higher security guard registration and who:

- (1) is not a resident of New Mexico;
- (2) does not hold a registration as a security guard in New Mexico; and
- (3) meets other requirements specified by the department.

E. A special event permit requiring a security guard to carry a firearm shall only be issued to an individual who is qualified to be registered as a level three security guard.

F. It is a violation of the Private Investigations Act (61-27B-1 NMSA 1978) for a private patrol company to circumvent the registration process for permanent or long-term part-time employment of security guards through use of the provisions of this section.

[16.48.2.21 NMAC - Rn, 16.48.2.20 NMAC, 1/15/2019]

16.48.2.22 CESSATION OF LICENSE BUSINESS: A registrant or licensee subject to the Private Investigations Act who ceases to do business as a registrant or licensee before the registration or license expiration date shall submit written notice of cancellation of his license to the department within 30 days of cessation of such business.

[16.48.2.22 NMAC - Rn, 16.48.2.21 NMAC, 1/15/2019]

16.48.2.23 GENERAL QUALIFICATIONS FOR REGISTRATION AND LICENSE OF APPLICANTS:

A. Must be a citizen of the United States.

B. Cannot have been convicted of a felony offense, an offense involving dishonesty or an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards as defined by the department.

C. Must have reached the age of majority (18 years) or 21 years if required by law or rule.

[16.48.2.23 NMAC - Rn, 16.48.2.22 NMAC, 1/15/2019]

16.48.2.24 [RESERVED]

[16.48.2.24 NMAC - Rn, 16.48.2.23 NMAC, 1/15/2019]

16.48.2.25 RECIPROCITY:

A. An investigator licensed in another state may conduct business in New Mexico only under the circumstances indicated below:

- (1) the investigation must be initiated in the investigator's home state;
- (2) the investigator may spend no more than 30 days per case while conducting an investigation in another state;

(3) the investigator is prohibited from soliciting business while in another state and from establishing a business or setting up residence while conducting an investigation in that state.

B. An applicant for licensure or registration by reciprocity may not engage in the practice of private investigations, private patrol operator, polygraph examiners or security guard in New Mexico until approval for licensure by reciprocity has been given and the department has issued an initial license.

C. Acceptance of a reciprocity applicant for licensure or registration is subject to department approval. All applicants for licensure or registration by reciprocity shall:

- (1) be of good moral character;
- (2) be duly and currently licensed or registered in at least one other state;
- (3) have no history of disciplinary action within the last five years against any professional license or registration;
- (4) provide proof of having met education and experience requirements in the state of licensure similar to or better than those required in New Mexico.

[16.48.2.25 NMAC - Rn, 16.48.2.24, 1/15/2019]

HISTORY OF 16.48.2 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

AG 68-1 (Rule No. IV), Private Patrol Operator Licenses, filed 4/3/1968.

AG 68-2 (Rule No. V), Private Investigator Licenses, filed 4/3/1968.

AG 69-2 (Rule No. VII), Private Investigators Licenses: Titles, filed 9/17/1969.

AG 70-2 (Rule No. VII), Private Investigators: Fictitious Names and Titles, filed 8/20/1970.

AG 69-3 (Rule No. VIII), Private Investigator Licenses: Interview of Applicant, filed 9/17/1969.

AG 70-3 (Rule No. VIII), Private Investigators: Interview of Applicant, filed 8/20/1970.

AG 70-5 (Rule No. X, Private Investigators: Alcohol Beverages, filed 8/20/1970.

AG 70-7 (Rule No. XII), Private Investigators: Deputy Sheriff Commissions, filed 11/19/1970.

AG 70-8 (Rule NO. XIII), Private Investigators: Cessation of Licensed Business, filed 11/19/1970.

NMLEA Rule #30, Bureau of Private Investigators: Rules and Regulations, filed 4/24/1981.

NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations, filed 11/4/1983.

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 6/1/1981.

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 5/27/1983.

NMPA Rule 92-3, Qualifications for Licensure, filed 8/17/1992.

NMPA Rule 92-6, Unauthorized Practice, filed 8/17/1992.

History of Repealed Material:

NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations (filed 11/4/1983); NMPA Rule 92-3, Qualifications for Licensure (filed 8/17/1992); and NMPA Rule 92-6, Unauthorized Practice (filed 8/17/1992) all repealed 03/07/08.

This rule expired on July 5, 2008 which was 120 days after its emergency filing on March 7, 2008. The Uniform Licensing Act (Subsection A of Section 61-1-30 NMSA 1978) stipulates that emergency rules cannot remain in effect for more than 120 days unless they are replaced by permanent rules.

Other History:

Those applicable portions of NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations (filed 11/4/1983); NMPA Rule 92-3, Qualifications for Licensure (filed 8/17/1992); and NMPA Rule 92-6, Unauthorized Practice (filed 8/17/1992) renumbered, reformatted, and replaced by 16.48.2 NMAC, Requirements for Licensure, effective 3/07/2008.

16.48.2 NMAC, Requirements for Licensure (filed 3/7/2008) was replaced by 16.48.2 NMAC, Requirements for Licensure, effective 9/24/2008.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 3 STANDARDS OF PRACTICE

16.48.3.1 ISSUING AGENCY: Regulation and Licensing Department, Private Investigations Advisory Board.

[16.48.3.1 NMAC - Re-pr, 16.48.3.1 NMAC, 9/24/2008]

16.48.3.2 SCOPE: All individuals and business entities registered and licensed under the Private Investigations Act.

[16.48.3.2 NMAC - Re-pr, 16.48.3.2 NMAC, 9/24/2008]

16.48.3.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Section 61-27B-5 NMSA 1978.

[16.48.3.3 NMAC - Re-pr, 16.48.3.3 NMAC, 9/24/2008]

16.48.3.4 DURATION: Permanent.

[16.48.3.4 NMAC - Re-pr, 16.48.3.4 NMAC, 9/24/2008]

16.48.3.5 EFFECTIVE DATE: September 24, 2008 unless a later date is cited in the history note at the end of a section.

[16.48.3.5 NMAC - Re-pr & A, 16.48.3.5 NMAC, 9/24/2008]

16.48.3.6 OBJECTIVE: To establish uniform standards of practice.

[16.48.3.6 NMAC - Re-pr, 16.48.3.6 NMAC, 9/24/2008]

16.48.3.7 DEFINITIONS: Refer to 16.48.1.7 NMAC

[16.48.3.7 NMAC - Re-pr, 16.48.3.7 NMAC, 9/24/2008]

16.48.3.8 INTERVIEW OF APPLICANTS: At the discretion of the department, any applicant for license or registration may be required to present himself for interview prior to approval of his application.

[16.48.3.8 NMAC - Re-pr, 16.48.3.8 NMAC, 9/24/2008]

16.48.3.9 ALCOHOLIC BEVERAGES:

A. Any uniformed registrant or licensee shall not consume alcoholic beverages or controlled substances while on duty.

B. When not in uniform, any registrant or licensee, while on duty, shall not consume alcoholic beverages or any controlled substance in such a manner as to adversely affect his performance under the capacity for which license or registration is issued.

[16.48.3.9 NMAC - Re-pr, 16.48.3.9 NMAC, 9/24/2008]

16.48.3.10 DEPUTY SHERIFF COMMISSIONS:

A. No licensee subject to the Private Investigators Act shall require any employee, as a condition or requirement of the employee's hiring or continued employment, to obtain a deputy sheriff's commission from any county sheriff, or to obtain a similar commission from any federal, state or local law enforcement agency.

B. No licensee subject to the Private Investigators Act nor any of his employees shall, during the pursuit of his licensed activities, display any deputy sheriff's or similar commission or badge issued pursuant to that commission in a manner likely to cause confusion between the licensed business and any city, local, federal or state police organization, or any branch of the United States military.

[16.48.3.10 NMAC - Re-pr, 16.48.3.10 NMAC, 9/24/2008]

16.48.3.11 FICTITIOUS NAMES AND TITLES:

A. Fictitious names under which licensees conduct businesses shall not contain words which may foster confusion with city, local, state or federal law enforcement agencies, such as "police".

B. The terms, "police", "sheriff", "peace officer", or "law enforcement", shall not be used as part of any business name and shall not be displayed or used on business cards, stationary, advertisements, badges,

uniforms, emblems, insignia or identification. No person licensed or required to be licensed under this act shall in any way give the impression that he is connected with the federal government, state government or any political subdivision of a state government.

[16.48.3.11 NMAC - Re-pr, 16.48.3.11 NMAC, 9/24/2008]

16.48.3.12 UNIFORMS, INSIGNIA, AND BADGES:

A. Uniforms worn by a registrant or licensee shall be of such design as not to be confused with uniforms worn by city, local or state police, or by any branch of the United States military. Insignia attached to the uniform of any registrant or licensee shall be of such design and placed in such manner as not to be confused with insignia attached to uniforms worn by city, local or state police, or by any branch of the United States military. A badge may be worn by a registrant or licensee only while such individual is in uniform and on duty.

B. A patch, at least two and one-half inches by one-half inch, entitled "SECURITY" will be worn on the left upper sleeve.

C. An identifiable plate showing the name of the individual and the company will be worn by all uniformed personnel. Such identification will be placed on the individual's outermost garment and be clearly visible at all times.

D. All private patrol operators and company licensees shall furnish the department a complete description of their uniform and shall furnish full length color photographs of the front and each side view of the uniform. All photographs must be clear and legible and shall accurately depict the uniform. A printed form, furnished by the department, shall be submitted describing those features deemed pertinent.

[16.48.3.12 NMAC - Re-pr, 16.48.3.12 NMAC, 9/24/2008]

HISTORY OF 16.48.3 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

AG 68-1 (Rule No. IV), Private Patrol Operator Licenses, filed 4/3/1968.

AG 68-2 (Rule No. V), Private Investigator Licenses, filed 4/3/1968.

AG 69-2 (Rule No. VII), Private Investigators Licenses: Titles, filed 9/17/1969.

AG 70-2 (Rule No. VII), Private Investigators: Fictitious Names and Titles, filed 8/20/1970.

AG 69-3 (Rule No. VIII), Private Investigator Licenses: Interview of Applicant, filed 9/17/1969.

AG 70-3 (Rule No. VIII), Private Investigators: Interview of Applicant, filed 8/20/1970.

AG 70-5 (Rule No. X), Private Investigators: Alcohol Beverages, filed 8/20/1970.

AG 70-7 (Rule No. XII), Private Investigators: Deputy Sheriff Commissions, filed 11/19/1970.

AG 70-8 (Rule NO. XIII), Private Investigators: Cessation of Licensed Business, filed 11/19/1970

NMLEA Rule #30, Bureau of Private Investigators: Rules and Regulations, filed 4/24/1981.

NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations, filed 11/4/1983.

History of Repealed Material:

NMLEA B/PI Rule #1 (filed 11/04/1983), repealed 3/7/2008.

This rule expired on July 5, 2008 which was 120 days after its emergency filing on March 7, 2008. The Uniform Licensing Act (Subsection A of Section 61-1-30 NMSA 1978) stipulates that emergency rules cannot remain in effect for more than 120 days unless they are replaced by permanent rules.

Other History:

Those applicable portions of NMLEA B/PI Rule #1 (filed 11/04/1983) was renumbered, reformatted, and replaced by 16.48.3 NMAC, Standards of Practice, effective 3/7/2008.

16.48.3 NMAC, Standards of Practice (filed 3/7/2008) was replaced by 16.48.3 NMAC, Standards of Practice, effective 9/24/2008.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 4 MANDATORY FIREARMS TRAINING

16.48.4.1 ISSUING AGENCY: Regulation and Licensing Department, Private Investigations Advisory Board.

[16.48.4.1 NMAC - Re-pr, 16.48.4.1 NMAC, 9/24/2008]

16.48.4.2 SCOPE: All individuals that apply for licensure and are authorized to carry a firearm under the Private Investigations Act.

[16.48.4.2 NMAC - Re-pr, 16.48.4.2 NMAC, 9/24/2008]

16.48.4.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Section 61-27B-31.

[16.48.3.3 NMAC - Re-pr, 16.48.4.3 NMAC, 9/24/2008]

16.48.4.4 DURATION: Permanent.

[16.48.4.4 NMAC - Re-pr, 16.48.4.4 NMAC, 9/24/2008]

16.48.4.5 EFFECTIVE DATE: September 24, 2008 unless a later date is cited in the history note at the end of a section.

[16.48.4.5 NMAC - Re-pr & A, 16.48.4.5 NMAC, 9/24/2008]

16.48.4.6 OBJECTIVE: To establish the firearms training requirements necessary to apply for licensure.

[16.48.4.6 NMAC - Re-pr, 16.48.4.6 NMAC, 9/24/2008]

16.48.4.7 DEFINITIONS: Refer to 16.48.1.7 NMAC

[16.48.4.7 NMAC - Re-pr, 16.48.4.7 NMAC, 9/24/2008]

16.48.4.8 MANDATORY FIREARMS TRAINING:

A. After July 1, 2007, any private investigator, a private patrol operator, a private investigations employee, a level three security guard or a private patrol operations employee may carry a firearm upon successful completion of the mandatory firearm training required by the department. Any licensee who carries a firearm on duty shall be required to provide proof of being firearm certified by an instructor recognized and certified by the New Mexico law enforcement academy or the national rifle association law enforcement activities division prior to carrying a weapon on duty, and annually thereafter.

B. The licensee will be required to qualify with the same type of weapon and caliber he will be carrying while on duty.

C. Specific course requirements and verification of completion forms will be posted on the board website and available on request from the board office.

D. The firearms qualification form issued by an instructor recognized and certified by the New Mexico law enforcement academy, federal government entity, military or the national rifle association law enforcement activities division shall at all times be in the possession of and located on the person of a registrant when working.

[16.48.4.8 NMAC - Re-pr & A, 16.48.4.8 NMAC, 9/24/2008; A, 5/1/2010; A, 1/15/2019]

HISTORY OF 16.48.4 NMAC:

Pre NMAC History:

The material in this part was derived from that previously filed with the commission of public records - state records center and archives:

AG 68-1 (Rule No. IV), Private Patrol Operator Licenses, filed 4/3/1968.

AG 68-2 (Rule No. V), Private Investigator Licenses, filed 4/3/1968.

AG 69-2 (Rule No. VII), Private Investigators Licenses: Titles, filed 9/17/1969.

AG 70-2 (Rule No. VII), Private Investigators: Fictitious Names and Titles, filed 8/20/1970.

AG 69-3 (Rule No. VIII), Private Investigator Licenses: Interview of Applicant, filed 9/17/1969.

AG 70-3 (Rule No. VIII), Private Investigators: Interview of Applicant, filed 8/20/1970.

AG 70-5 (Rule No. X, Private Investigators: Alcohol Beverages, filed 8/20/1970.
AG 70-7 (Rule No. XII), Private Investigators: Deputy Sheriff Commissions, filed 11/19/1970.
AG 70-8 (Rule No. XIII), Private Investigators: Cessation of Licensed Business, filed 11/19/1970.
NMLEA Rule #30, Bureau of Private Investigators: Rules and Regulations, filed 4/24/1981.
NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations, filed 11/4/1983.

History of Repealed Material:

NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations (filed 11/4/1983) repealed 3/7/2008. This rule expired on July 5, 2008 which was 120 days after its emergency filing on March 7, 2008. The Uniform Licensing Act (Subsection A of Section 61-1-30 NMSA 1978) stipulates that emergency rules cannot remain in effect for more than 120 days unless they are replaced by permanent rules.

Other History:

Those applicable portions of NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations (filed 11/4/1983) renumbered, reformatted, and replaced by 16.48.4 NMAC, Mandatory Firearms Training, effective 3/7/2008.

16.48.4 NMAC, Mandatory Firearms Training (filed 3/7/2008) was replaced by 16.48.4 NMAC, Mandatory Firearms Training, effective 9/24/2008.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 5 FEES

16.48.5.1 ISSUING AGENCY: Regulation and Licensing Department, Private Investigations Advisory Board.

[16.48.5.1 NMAC - Re-pr, 16.48.5.1 NMAC, 9/24/2008]

16.48.5.2 SCOPE: All individuals and business registered and licensed under the Private Investigations Act.

[16.48.5.2 NMAC - Re-pr, 16.48.5.2 NMAC, 9/24/2008]

16.48.5.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Section 61-27B-20 NMSA 1978.

[16.48.5.3 NMAC - Re-pr, 16.48.5.3 NMAC, 9/24/2008]

16.48.5.4 DURATION: Permanent.

[16.48.5.4 NMAC - Re-pr, 16.48.5.3 NMAC, 9/24/2008]

16.48.5.5 EFFECTIVE DATE: September 24, 2008 unless a later date is cited in the history note at the end of a section.

[16.48.5.5 NMAC - Re-pr & A, 16.48.5.5 NMAC, 9/24/2008]

16.48.5.6 OBJECTIVE: To establish fees to generate revenue adequate to fund the cost of program administration as authorized under Section 61-27B-20 NMSA 1978.

[16.48.5.6 NMAC - Re-pr, 16.48.5.6 NMAC, 9/24/2008]

16.48.5.7 DEFINITIONS: [RESERVED]

[Refer to 16.48.1.7 NMAC]

16.48.5.8 FEE SCHEDULE:

A. All fees payable to the board are non-refundable.

B. Application fees:

(1)	private investigator	\$100.00
(2)	private investigation company	\$100.00
(3)	private investigations manager	\$100.00
(4)	private investigations employee	\$ 25.00
(5)	private patrol operator	\$100.00
(6)	private patrol company	\$100.00
(7)	private patrol operations manager	\$100.00
(8)	polygraph examiner	\$100.00

C. Registration or registration renewal fees:

(1)	security guard level one	\$50.00
(2)	security guard level two	\$50.00
(3)	security guard level three	\$75.00
(4)	private investigations employee	\$50.00

D. Initial license or license renewal fees:

(1)	private investigator	\$300.00
(2)	private investigations manager	\$200.00
(3)	private patrol operator	\$300.00
(4)	private patrol operations manager	\$200.00
(5)	polygraph examiner	\$400.00
(6)	late fee on license renewals	\$100.00

E. Other fees applying to private investigators, private patrol operators and polygraph examiners:

(1)	special event permit	\$100.00
(2)	private patrol branch office certificate	\$100.00

F. Background fees shall be the amount established by the department of public safety for the processing of criminal history background checks.

[16.48.5.8 NMAC - Re-pr & A, 16.48.5.8 NMAC, 9/24/2008; A, 5/01/2010; A, 5/12/2016]

HISTORY OF 16.48.5 NMAC:

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 6/1/1981.

NMLEA Rule #31, Bureau of Polygraphy: Rules and Regulations, filed 5/27/1983.

NMLEA Rule #30, Bureau of Private Investigators: Rules and Regulations, filed 4/24/1981.

NMLEA B/PI Rule #1, Bureau of Private Investigators: Rules and Regulations, filed 11/4/1983.

NMPA Rule 92-8, Fee Schedule, filed 8-17-92.

History of Repealed Material: NMLEA B/PI Rule #1 (filed 11/4/1983), repealed 3/7/2008.

NMPA Rule 92-1 (filed 8/17/1992); NMPA Rule 92-8 (filed 8/17/1992).

This rule expired on July 5, 2008 which was 120 days after its emergency filing on March 7, 2008. The Uniform Licensing Act (Subsection A of Section 61-1-30 NMSA 1978) stipulates that emergency rules cannot remain in effect for more than 120 days unless they are replaced by permanent rules.

Other History:

Those applicable portions of NMLEA B/PI Rule #1 (filed 11/04/1983); NMPA Rule 92-1 (filed 8/17/1992); NMPA Rule 92-8 (filed 8/17/1992) all replaced by 16.48.5 NMAC, Fees, effective 3/7/2008.

16.48.5 NMAC, Fees (filed 3/7/2008) was replaced by 16.48.5 NMAC, Fees, effective 9/24/2008.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 6 CONTINUING EDUCATION

16.48.6.1 ISSUING AGENCY: Regulation and Licensing Department, Private Investigations Advisory Board.

[16.48.6.1 NMAC - N, 9/24/2008]

16.48.6.2 SCOPE: This part applies to the licensees and registrants.

[16.48.6.2 NMAC - N, 9/24/2008]

16.48.6.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Sections 61-27B-5, 61-27B-21 & 61-27B-26 NMSA 1978.

[16.48.6.3 NMAC - N, 9/24/2008]

16.48.6.4 DURATION: Permanent.

[16.48.6.4 NMAC - N, 9/24/2008]

16.48.6.5 EFFECTIVE DATE: September 24, 2008 unless a later date is cited in the history note at the end of a section.

[16.48.6.5 NMAC - N, 9/24/2008]

16.48.6.6 OBJECTIVE: The objective of Part 6 is to inform licensees of continuing education hours required for license renewal. Additionally, Part 16 established acceptable continuing education.

[16.48.6.6 NMAC - N, 9/24/2008]

16.48.6.7 DEFINITIONS: For purposes of continuing education requirements, "**renewal period**" shall mean the current one year renewal period of July 1 thru June 30.

[16.48.6.7 NMAC - N, 9/24/2008]

[Refer to 16.48.1.7 NMAC]

16.48.6.8 CONTINUING EDUCATION:

A. Continuing education is required for renewal of an individual license and registration.

B. Private investigators must complete a minimum of four hours of continuing education training from an approved source, during the renewal period to maintain their license.

C. Security guards must complete a minimum of four hours of continuing education training from an approved source, during the renewal period to maintain their license.

D. Polygraph licensees must complete a minimum of 20 hours of continuing education training from an approved source, during the renewal period to maintain their license.

E. Proof of participation in or presentation of continuing education activity must be submitted with the license renewal request if the licensee is audited.

F. All continuing education hours must be earned during the current one year renewal period of **July 1 thru June 30**; no carryover will be permitted.

G. Firearms requalification courses will not count towards mandatory training.

H. Approved sources for continuing education are:

- (1)** college level courses;
- (2)** in-house training provided by a private patrol company licensed by the department;
- (3)** the New Mexico law enforcement academy; or
- (4)** any other department-approved educational institution.

I. One hour of continuing education credit will be granted for each hour attended in a topic which directly relates to the performance of duties under the respective license. College level courses will be granted 15 hours of continuing education credit for each successfully completed college credit.

J. Completion of training courses required for initial licensing will satisfy the continuing education requirements for the first licensing period of an initial license.

K. No license or registration shall be renewed without proof of required continuing education credits.

[16.48.6.8 NMAC - N, 9/24/2008]

HISTORY OF 16.48.6 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 7 LICENSE RENEWAL, INACTIVE STATUS AND REINSTATEMENT

16.48.7.1 ISSUING AGENCY: Regulation and Licensing Department, Private Investigations Advisory Board.

[16.48.7.1 NMAC - N, 9/24/2008]

16.48.7.2 SCOPE: This part applies to the licensees and registrants.

[16.48.7.2 NMAC - N, 9/24/2008]

16.48.7.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Section 61-27B-5, 61-27B-21 & 61-27B-26 NMSA 1978.

[16.48.7.3 NMAC - N, 9/24/2008]

16.48.7.4 DURATION: Permanent.

[16.48.7.4 NMAC - N, 9/24/2008]

16.48.7.5 EFFECTIVE DATE: September 24, 2008 unless a later date is cited in the history note at the end of a section.

[16.48.7.5 NMAC - N, 9/24/2008]

16.48.7.6 OBJECTIVE: This part establishes the procedures for license expiration and license renewal.

[16.48.7.6 NMAC - N, 9/24/2008]

16.48.7.7 DEFINITIONS: Refer to 16.48.1.7 NMAC.

[16.48.7.7 NMAC - N, 9/24/2008]

16.48.7.8 LICENSE AND REGISTRATION RENEWAL: Licensees and registrants shall renew their licenses issued pursuant to the Private Investigations Act biennially by remitting to the board office a renewal fee, renewal application form provided by the board, completed fingerprint cards, a completed verification of fingerprints form, a notarized authorization for release of information form and the prescribed fee for a state and federal criminal history background check. Renewal documents must be postmarked no later than the expiration date or a late fee will be assessed without exception. Continuing education hours shall be documented as described in Part 6.

[16.48.7.8 NMAC - N, 9/24/2008; A, 1/15/2019]

16.48.7.9 LICENSE RENEWAL DEADLINE: Licensees or registrants failing to submit a renewal application and the required documentation on or before the expiration date shall be considered expired and must refrain from practicing. A licensee or registrant will be allowed a 30-day grace period in which they will be allowed to renew their license or registration with a late fee. Any renewal received after the 30-day grace period will not be accepted and the licensee or registrant will need to comply with 16.48.2 NMAC.

[16.48.7.9 NMAC - N, 9/24/2008; A, 5/10/2010; A, 1/15/2019]

16.48.7.10 LICENSE RENEWAL NOTICES: Renewal notices will be electronically mailed to each current licensee and registrant at least 30 days prior to the expiration date of the license.

[16.48.7.10 NMAC - N, 9/24/2008; A, 1/15/2019]

16.48.7.11 LICENSEE RESPONSIBILITY: Renewal notices will be electronically mailed to the last known address on file with the board. It is the responsibility of the licensee and registrant to keep the board informed of any changes in address and phone numbers. Failure to receive the renewal application notice shall not relieve the licensee or registrant of the responsibility of renewing his license before the expiration date.

[16.48.7.11 NMAC - N, 9/24/2008; A, 1/15/2019]

16.48.7.12 APPROVAL OF RENEWAL APPLICATION: Upon department approval of the renewal application, the department will issue a renewal to the licensee or registrant.

[16.48.7.12 NMAC - N, 9/24/2008]

16.48.7.13 INACTIVE STATUS:

A. A licensed or registered person in good standing may request up to five years of inactive status by notifying the department in writing before the expiration of their current license.

B. An inactive status license or registration may be restored within the five year period upon receiving a completed reinstatement application, which shall be provided by the department.

C. A completed reinstatement application must include the appropriate reinstatement fee, two current passport type photographs and a completed fingerprint package.

D. A license or registration not restored within five years is automatically expired without notice from the board or department.

[16.48.7.13 NMAC - N, 9/24/2008]

16.48.7.14 REINSTATEMENT OF LICENSURE:

A. Reinstatement of a license or registration that has expired for more than one year, but less than 10 requires the following:

(1) completion of a new license application relevant to the license or registration in expired status;

(2) payment of late fee;

(3) payment of the application fee;

(4) submission of a completed fingerprint package; and

(5) passage of the jurisprudence examination.

B. A license or registration that has been expired for more than 10 years must apply as a new licensee or registrant and meet all the current requirements for licensure or registration.

[16.48.7.14 NMAC N, 9/24/2008; A, 5/10/2010]

HISTORY OF 16.48.7 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 48 PRIVATE LAW ENFORCEMENT PRACTITIONERS
PART 8 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS

16.48.8.1 ISSUING AGENCY: Regulation and Licensing Department, Private Investigations Advisory Board.

[16.48.8.1 NMAC - N, 1/15/2015]

16.48.8.2 SCOPE: This part sets forth application procedures to expedite licensure for military service members, spouses and veterans.

[16.48.8.2 NMAC - N, 1/15/2015]

16.48.8.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with the Private Investigations Act, Section 61-27B-1 to -36 NMSA 1978 (specific authority to promulgate rules is Subsection (C) of Section 61-27B-5 and Section 61-1-34 NMSA 1978).

[16.48.8.3 NMAC - N, 1/15/2015]

16.48.8.4 DURATION: Permanent.

[16.48.8.4 NMAC - N, 1/15/2015]

16.48.8.5 EFFECTIVE DATE: January 15, 2015, unless a later date is cited at the end of a section.

[16.48.8.5 NMAC - N, 1/15/2015]

16.48.8.6 OBJECTIVE: The purpose of this part is to expedite licensure for military service members, their spouses and veterans pursuant to Subsection 34, of Section 1 of Chapter 61 NMSA 1978.

[16.48.8.6 NMAC - N, 1/15/2015]

16.48.8.7 DEFINITIONS:

A. "Military service member" means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

B. "Recent veteran" means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.

[16.48.8.7 NMAC - N, 1/15/2015]

16.48.8.8 APPLICATION REQUIREMENTS:

A. Applications for licensure shall be completed on a form provided by the board.

B. The applicant shall provide:

(1) completed application and corresponding fee pursuant to 16.48.5.8 NMAC;

(2) satisfactory evidence that the applicant is currently licensed in another jurisdiction, including a branch of the United States armed forces, and holds a current license in good standing; the applicant further must provide satisfactory evidence that he has met the minimal licensing requirements in that jurisdiction and that they are substantially equivalent to the licensing requirements for the occupational or professional license the applicant applies for pursuant to Chapter 61, Articles 27B NMSA 1978; and

(3) proof of honorable discharge (DD214) or military ID card or accepted proof of military spouse status.

C. Electronic signatures will be acceptable for applications submitted pursuant to Section 14-16-1 through Section 14-16-19 NMSA 1978.

[16.48.8.8 NMAC - N, 1/15/2015]

16.48.8.9 RENEWAL REQUIREMENTS:

A. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance set forth in 16.48.2 NMAC and for the renewal of a license set forth in 16.48.7 NMAC pursuant to Chapter 61, Articles 2 through 36 NMSA 1978.

B. A license issued pursuant to this section shall be valid for two years.

C. The board office mails license renewal notifications to licensees before the license expiration date. Failure to receive the renewal notification shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

D. The renewal application will be available online at the board's website and in paper copy if requested from the board office and must be received at the board office on or before the expiration date.
[16.48.8.9 NMAC - N, 1/15/2015]

History of 16.48.8 NMAC: [RESERVED]

Statutes

NMSA 1978

61-27B-1 through 61-27B-36

ARTICLE 27B

Private Investigations

Section

- 61-27B-1 Short title. (Repealed effective July 1, 2024.)
- 61-27B-2 Definitions. (Repealed effective July 1, 2024.)
- 61-27B-3 License required. (Repealed effective July 1, 2024.)
- 61-27B-4 Persons exempted. (Repealed effective July 1, 2024.)
- 61-27B-5 Administration of act; rules. (Repealed effective July 1, 2024.)
- 61-27B-6 Private investigations advisory board; created; members. (Repealed effective July 1, 2024.)
- 61-27B-7 Requirements for licensure. (Repealed effective July 1, 2024.)
- 61-27B-8 Private investigation company; requirements for licensure. (Repealed effective July 1, 2024.)
- 61-27B-9 Private investigations manager; requirements for licensure; notification of department in event of termination of employment. (Repealed effective July 1, 2024.)
- 61-27B-10 Private patrol operator; requirements for licensure. (Repealed effective July 1, 2024.)
- 61-27B-11 Private patrol company; requirements for licensure. (Repealed effective July 1, 2024.)
- 61-27B-12 Private patrol operations manager; requirement for licensure; notification of department in event of termination of employment. (Repealed effective July 1, 2024.)
- 61-27B-13 Polygraph examiner. (Repealed effective July 1, 2024.)
- 61-27B-14 Private investigations employee; registration; requirements. (Repealed effective July 1, 2024.)
- 61-27B-15 Security guard; levels of registration. (Repealed effective July 1, 2024.)
- 61-27B-16 Security guard; level one; registration; requirements. (Repealed effective July 1, 2024.)
- 61-27B-17 Security guard; level two; registration; requirements. (Repealed effective July 1, 2024.)
- 61-27B-18 Security guard; level three; registration; requirements. (Repealed effective July 1, 2024.)
- 61-27B-19 Special event permit; nonresident security guard procedure; qualifications; prohibited (Repealed effective July 1, 2024.)
- 61-27B-20 Fees. (Repealed effective July 1, 2024.)
- 61-27B-21 License and registration renewal. (Repealed effective July 1, 2024.)
- 61-27B-22 Display of license; notification of changes. (Repealed effective July 1, 2024.)
- 61-27B-23 General operations provisions of companies; management; liability for employees' conduct; maintenance of records required; required and permitted activities; allowed categories of unlicensed employees. (Repealed effective July 1, 2024.)
- 61-27B-24 Bond required. (Repealed effective July 1, 2024.)
- 61-27B-25 Prohibited acts. (Repealed effective July 1, 2024.)
- 61-27B-26 Denial, suspension or revocation of license or registration. (Repealed effective July 1, 2024.)
- 61-27B-27 Hearing; penalties. (Repealed effective July 1, 2024.)
- 61-27B-28 License not transferable. (Repealed effective July 1, 2024.)
- 61-27B-29 Local regulations. (Repealed effective July 1, 2024.)
- 61-27B-30 Fund established. (Repealed effective July 1, 2024.)

61-27B-31 Firearms. (Repealed effective July 1, 2024.)

61-27B-32 Penalties. (Repealed effective July 1, 2024.)

61-27B-33 Reciprocity. (Repealed effective July 1, 2024.)

61-27B-34 Background investigations. (Repealed effective July 1, 2024.)

61-27B-35 Temporary provision; transition.

61-27B-36 Termination of agency life; delayed repeal. (Repealed effective July 1, 2024.)

61-27B-1. Short title. (Repealed effective July 1, 2024.)

Statute text

Chapter 61, Article 27B NMSA 1978 may be cited as the "Private Investigations Act".

61-27B-2. Definitions. (Repealed effective July 1, 2024.)

Statute text

As used in the Private Investigations Act [61-27B-1 NMSA 1978]:

A. "armored car company" means a company that knowingly and willingly transports money and other negotiables for a fee or other remuneration;

B. "bodyguard" means an individual who physically performs the mission of personal security for another individual;

C. "branch office" means an office of a private investigation company or a private patrol company physically located in New Mexico and managed, controlled or directed by a private investigations manager or private patrol operations manager;

D. "client" means an individual or legal entity having a contract that authorizes services to be provided in return for financial or other consideration;

E. "conviction" means any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise and whether or not the sentence is deferred or suspended;

F. "department" means the regulation and licensing department;

G. "individual" means a single human being;

H. "legal business entity" means a sole proprietorship, corporation, partnership, limited liability company, limited liability partnership or other entity formed for business purposes;

I. "licensee" means a person licensed pursuant to the Private Investigations Act;

J. "polygraph examiner" means an individual licensed by the department to engage in the practice of polygraphy;

K. "polygraphy" means the process of employing an instrument designed to graphically record simultaneously the physiological changes in human respiration, cardiovascular activity, galvanic skin resistance or reflex for the purpose of lie detection and includes the reading and interpretation of polygraphic records and results or any other device used to measure truthfulness;

L. "private investigation company" means a legal business entity that provides private investigation services, the location of which may be within or outside of the state, provided that the private investigation services are performed within New Mexico;

M. "private investigator" means an individual who is licensed by the department to engage in business or who accepts employment to conduct an investigation pursuant to the Private Investigations Act to obtain information regarding:

(1) crime or wrongs done or threatened against the United States or any state or territory of the United States;

(2) a person;

(3) the location, disposition or recovery of lost or stolen property;

(4) the cause or responsibility for fires, losses, accidents or damage or injury to persons or properties;

(5) the securing of evidence to be used before a court, administrative tribunal, board or investigating committee or for a law enforcement officer; or

(6) the scene of a motor vehicle accident or evidence related to a motor vehicle accident;

N. "private investigations employee" means an individual who is registered by the department to work under the direct control and supervision of a private investigator for a private investigation company;

O. "private investigations manager" means an individual who:

(1) is licensed as a private investigator and is issued a license by the department as a private investigations manager;

(2) directs, controls or manages a private investigation company for the owner of the company; and

(3) is assigned to and operates from the private investigation company that the private investigations manager is licensed to manage or from a branch office of that private investigation company;

P. "private patrol company" means a legal business entity, the location of which may be within or outside of the state, including an independent or proprietary commercial organization that provides private patrol operator services that are performed in New Mexico and the activities of which include employment of licensed private patrol operators or security guards;

Q. "private patrol employee" means an individual who is registered by the department to work under the direct control and supervision of a private patrol operator for a private patrol company;

R. "private patrol operations manager" means an individual who:

(1) is licensed as a private patrol operator or registered as a level three security guard and is issued a license by the department as a private patrol operations manager;

(2) directs, controls or manages a private patrol company for the owner of the company; and

(3) is assigned to and operates from the private patrol company that the private patrol operations manager is licensed to manage or from a branch office of that private patrol company;

S. "private patrol operator" means an individual who is licensed by the department to:

(1) conduct uniformed or nonuniformed services as a watchman, security guard or patrolman to protect property and persons on or in the property;

(2) prevent the theft, unlawful taking, loss, embezzlement, misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind; or

(3) perform the services required of a security guard or security dog handler or provide security services for an armored car company;

T. "proprietary commercial organization" means an organization or division of an organization that provides full- or part-time security guard services solely for itself;

U. "registrant" means an individual registered as a private investigations employee, a private patrol operations employee or a security guard at any level;

V. "security dog handler" means an individual who patrols with dogs to detect illegal substances or explosives;

W. "security guard" means an individual who is registered to engage in uniformed or nonuniformed services under the direct control and supervision of a licensed private patrol operator or a private patrol operations manager to perform such security missions as watchman, fixed post guard, dog handler, patrolman or other person to protect property or prevent thefts; and

X. "special event" means a parade or other public or private event of short duration requiring security.

61-27B-3. License required. (Repealed effective July 1, 2024.)

Statute text

It is unlawful for an individual to:

A. act as a private investigator, private patrol operator, security guard, private investigations employee, private investigations manager or private patrol operations manager or to make any representation as being a licensee or registrant unless the individual is licensed by the department pursuant to the Private Investigations Act [61-27B-1 NMSA 1978];

B. render physical protection for remuneration as a bodyguard unless the individual is licensed as a private investigator or a private patrol operator;

C. continue to act as a private investigator, private patrol operator, security guard, private investigations employee, private investigations manager or private patrol operations manager if the individual's license issued pursuant to the Private Investigations Act has expired;

D. falsely represent that the individual is employed by a licensee; or

E. practice polygraphy for any remuneration without a license issued by the department in accordance with the Private Investigations Act.

61-27B-4. Persons exempted. (Repealed effective July 1, 2024.)

Statute text

A. As used in this section, "temporary" means a period of time not to exceed the duration of one private event or one school or nonprofit organization event, as described in Paragraphs (2) and (3) of Subsection B of this section.

B. Investigations Act does not apply to:

(1) an individual employed exclusively and regularly by one employer in connection with the affairs of that employer, provided that the individual patrols or provides security only on the premises of the employer as limited by the employer;

(2) an individual employed exclusively to provide temporary security at a private event that is not open to the public;

(3) individuals providing temporary security at athletic or other youth events and where the events occur under the auspices of a public or private school or a nonprofit organization;

(4) an attorney licensed in New Mexico conducting private investigations while engaged in the practice of law;

(5) an officer or employee of the United States or this state or a political subdivision of the United States or this state while that officer or employee is engaged in the performance of the officer's or employee's official duties;

(6) a person engaged exclusively in the business of obtaining and furnishing information concerning the financial rating of persons;

(7) a charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit;

(8) a licensed collection agency or an employee of the agency while acting within the scope of employment while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or the debtor's property;

(9) admitted insurers, adjusters, agents and insurance brokers licensed by the state performing duties in connection with insurance transactions by them; or

(10) an institution subject to the jurisdiction of the director of the financial institutions division of the department or the comptroller of currency of the United States.

61-27B-5. Administration of act; rules. (Repealed effective July 1, 2024.)

Statute text

A. The department shall enforce and administer the provisions of the Private Investigations Act [61-27B-1 NMSA 1978].

B. The department shall keep a record of each individual licensee.

C. The department shall adopt and enforce rules necessary to carry out the provisions of the Private Investigations Act, including establishing professional ethical standards.

D. The department shall adopt rules regarding:

(1) licensing private investigators, private investigations managers, private investigation companies, private patrol operators, private patrol operations managers, private patrol employees and polygraph examiners;

(2) registering private investigations employees, security guards and private patrol employees;

(3) establishing minimum training and educational standards for licensure and registration;

(4) establishing continuing education requirements;

(5) establishing and operating a branch office;

(6) creating a policy on reciprocity with other states and territories of the United States;

(7) providing permits for security guards for special events; and

(8) conducting background investigations.

61-27B-6. Private investigations advisory board; created; members. (Repealed effective July 1, 2024.)

Statute text

A. The "private investigations advisory board" is created.

B. The superintendent of regulation and licensing shall appoint members to the advisory board to assist in the conduct of the examination process for licensees and registrants and to assist the department in other manners as requested by the superintendent or provided for in rules of the department.

C. The advisory board members shall consist of at least the following:

(1) one private investigator;

(2) one private patrol operator;

(3) one polygraph examiner; and

(4) two members of the public.

D. Members of the advisory board shall be reimbursed pursuant to the Per Diem and Mileage Act [Sections 10-8-1 through 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance for each day spent in the discharge of their duties.

E. The public members of the advisory board or their spouses shall not:

(1) have been licensed pursuant to the Private Investigations Act or any prior similar statutory provisions; or

(2) have a direct or indirect financial interest in a private investigation company, private patrol company, polygraph business or a related business.

History

61-27B-7. Requirements for licensure. (Repealed effective July 1, 2024.)

Statute text

A. The department shall issue a license as a private investigator to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant has met all requirements set forth by the department in rule, including that the applicant:

- (1) is at least twenty-one years of age;
- (2) is of good moral character;
- (3) has successfully passed an examination as required by department rule;
- (4) has not been convicted of a felony offense, an offense involving dishonesty or an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards as defined by the department; and

(5) has at least three years' experience that has been acquired within the five years preceding the filing of the application with the department of actual work performed in:

- (a) investigation for the purpose of obtaining information with reference to a crime or wrongs done or threatened against the United States;
- (b) investigation of persons;
- (c) the location, disposition or recovery of lost or stolen property;
- (d) the cause or responsibility for fire, losses, motor vehicle or other accidents or damage or injury to persons or property; or
- (e) securing evidence to be used before a court, administrative tribunal, board or investigating committee or for a law enforcement officer.

B. Years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from employers and shall be subject to independent verification by the department as it deems warranted. The burden of proving necessary experience is on the applicant.

61-27B-8. Private investigation company; requirements for licensure. (Repealed effective July 1, 2024.)

Statute text

A. The department shall issue a license for a private investigation company to a person that files a completed application accompanied by the required fees and that submits satisfactory evidence that the applicant:

(1) if an individual, is of good moral character; or if a legal business entity, the owners, officers or directors of the entity are of good moral character;

(2) if an individual, has not been convicted of a felony offense, an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards; or if a legal business entity, the owners, officers or directors of the entity, either singly or collectively, have not been convicted of a felony offense or an offense involving intentional violent acts or the illegal

use or possession of deadly weapons and have not been found to have violated professional ethical standards;

(3) maintains a surety bond in the amount of ten thousand dollars (\$10,000); however, private investigators who provide personal protection or bodyguard services shall maintain general liability insurance as specified in the Private Investigations Act [61-27B-1 NMSA 1978] in lieu of the surety bond required by the provisions of this paragraph;

(4) has an owner or a licensed private investigations manager who is licensed as a private investigator and who manages the daily operations of the private investigation company;

(5) maintains a physical location in New Mexico where records are maintained and made available for department inspection;

(6) maintains a New Mexico registered agent if the applicant is a private investigation company located outside of New Mexico; and

(7) meets all other requirements set forth in the rules of the department.

B. The owner or the chief executive officer of a private investigation company that provides personal protection or bodyguard services shall maintain a general liability certificate of insurance in an amount required by the department. The department shall suspend the license issued pursuant to this section of a private investigation company that fails to maintain an effective general liability certificate of insurance as required. The department shall not reinstate the license of a private investigation company that has had its license suspended pursuant to this subsection until an application is submitted to the department with the necessary fees and a copy of the private investigation company's general liability certificate of insurance in effect. The department may deny an application for reinstatement of a private investigation company's license, notwithstanding the applicant's compliance with this subsection for:

(1) a reason that would justify a denial to issue a new private investigation company license or that would be cause for a suspension or revocation of a private investigation company's license; or

(2) the performance by the applicant of an act requiring a license issued pursuant to the Private Investigations Act while the applicant's license is under suspension for failure to maintain the applicant's general liability certificate of insurance in effect.

61-27B-9. Private investigations manager; requirements for licensure; notification of department in event of termination of employment. (Repealed effective July 1, 2024.)

Statute text

A. The department shall issue a license for a private investigations manager to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) possesses a current license in good standing as a private investigator;

(2) has successfully passed an examination required by department rules;

(3) is employed by the private investigation company that the applicant is being licensed to manage; and

(4) meets other requirements set forth in the rules of the department.

B. A private investigations manager who ceases to be employed by the private investigation company that the manager is licensed to manage, before leaving the company, shall surrender the private investigations manager's license to the owner, officer or director who is required to temporarily take over the management of the private investigation company. The owner, officer

or director who temporarily takes over managing the private investigation company within thirty days of the termination from employment of the private investigations manager shall:

(1) notify the department of the termination of the employment of the private investigations manager;

(2) submit the surrendered license; and

(3) submit an application to the department naming a new private investigations manager, who shall not begin to perform the duties of a private investigations manager until and unless the department grants the applicant a private investigations manager's license.

C. Failure to notify the department within thirty days of the private investigations manager's termination from employment subjects the license of the private investigation company to suspension or revocation by the department.

D. Reinstatement of the private investigation company's license may occur only upon the filing of an application for reinstatement and payment of the reinstatement fee.

61-27B-10. Private patrol operator; requirements for licensure. (Repealed effective July 1, 2024.)

Statute text

A. The department shall issue a license for a private patrol operator to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least twenty-one years of age;

(2) is of good moral character;

(3) has successfully passed an examination as required by department rules;

(4) has not been convicted of a felony offense, an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;

(5) has at least three years' experience of actual work performed as a security guard or an equivalent position, one year of which shall have been in a supervisory capacity. The experience shall have been acquired within five years preceding the filing of the application with the department. Years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from the applicant's employers and shall be subject to independent verification by the department as it determines is warranted. The burden of proving necessary experience is on the applicant;

(6) is firearm certified, if the position will require being armed with a firearm; and

(7) meets other requirements set forth in rules of the department.

B. A private patrol operator may not investigate acts except those that are incidental to a theft, embezzlement, loss, misappropriation or concealment of property or other item that the private patrol operator has been engaged or hired to protect, guard or watch.

61-27B-11. Private patrol company; requirements for licensure. (Repealed effective July 1, 2024.)

Statute text

A. The department shall issue a license for a private patrol company to a person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) if an individual, is of good moral character; or if a legal business entity, the owners, officers or directors of the entity are of good moral character;

(2) if an individual, has not been convicted of a felony offense, an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards, or if a legal business entity, the owners, officers or directors of the entity, either singly or collectively, have not been convicted of a felony offense, an offense involving dishonesty or an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and have not been found to have violated professional ethical standards;

(3) has an owner or a licensed private patrol operations manager who manages the daily operations of the private patrol company;

(4) maintains a physical location in New Mexico where records are maintained and made available for department inspection;

(5) maintains a New Mexico registered agent if the applicant is a private patrol company located outside of New Mexico; and

(6) meets all other requirements set forth in the rules of the department.

B. The owner or the chief executive officer of a private patrol company shall maintain a general liability certificate of insurance in an amount required by the department. The department shall suspend the license issued pursuant to this section of a private patrol company that fails to maintain an effective general liability certificate of insurance as required. The department shall not reinstate the license of a private patrol company that has had its license suspended pursuant to this subsection until an application is submitted to the department with the necessary fees and a copy of the private patrol company's general liability certificate of insurance newly in effect. The department may deny an application for reinstatement of a private patrol company's license, notwithstanding the applicant's compliance with this subsection for:

(1) a reason that would justify a denial to issue a new private patrol company license or that would be cause for a suspension or revocation of a private patrol company's license; or

(2) the performance by the applicant of an act requiring a license issued pursuant to the Private Investigations Act [61-27B-1 NMSA 1978] while the applicant's license is under suspension for failure to maintain the applicant's general liability certificate of insurance in effect.

61-27B-12. Private patrol operations manager; requirement for licensure; notification of department in event of termination of employment. (Repealed effective July 1, 2024.)

Statute text

A. The department shall issue a license for a private patrol operations manager to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) possesses a current license in good standing as a private patrol operator or a registration as a level three security guard;

(2) has successfully passed an examination required by department rule;

(3) is employed by the private patrol company that the applicant is being licensed to manage; and

(4) meets other requirements set forth in the rules of the department.

B. A private patrol operations manager who ceases to be employed by the private patrol company that the manager is licensed to manage, before leaving the company, shall surrender the private patrol operations manager's license to the owner, officer or director who is required to temporarily take over the management of the private patrol company. The owner, officer or

director who temporarily takes over managing the private patrol company within thirty days of the termination from employment of the private patrol operations manager shall:

(1) notify the department of the termination of the employment of the private patrol operations manager;

(2) submit the surrendered license; and

(3) submit an application to the department naming a new private patrol operations manager, who shall not begin to perform the duties of a private patrol operations manager until the department grants the applicant a private patrol operations manager's license.

C. Failure to notify the department within thirty days of the private patrol operations manager's termination from employment subjects the license of the private patrol company to suspension or revocation by the department.

D. Reinstatement of the private patrol company's license may occur only upon the filing of an application for reinstatement and payment of the reinstatement fee.

61-27B-13. Polygraph examiner. (Repealed effective July 1, 2024.)

Statute text

The department shall issue a license as a polygraph examiner to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

A. is at least eighteen years of age;

B. is of good moral character;

C. possesses a high school diploma or its equivalent;

D. has not been convicted of a felony involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;

E. has graduated from an accredited polygraph examiners course approved by the department;

F. has:

(1) completed a probationary operational competency period and passed an examination of ability approved by the department to practice polygraphy; or

(2) submitted proof of holding, for a minimum of two years immediately preceding the date of application, a current license to practice polygraphy in another jurisdiction whose standards are equal to or greater than those in New Mexico; and

G. meets other requirements set forth in the rules of the department.

History

61-27B-14. Private investigations employee; registration; requirements. (Repealed effective July 1, 2024.)

Statute text

A. On or after July 1, 2007, every individual who seeks employment or is currently employed as a private investigations employee or who provides services on a contract basis to a private investigation company shall file an application for registration as a private investigations employee with the department.

B. The department shall issue a registration for a private investigations employee to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least twenty-one years of age;
(2) is of good moral character;
(3) possesses a high school diploma or its equivalent;
(4) has successfully completed an examination as required by department rule;
(5) has not been convicted of a felony involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;

(6) shall be employed by, or shall contract with a private investigation company to provide investigation services for, a private investigation company, under the direct control and supervision of a private investigator; and

(7) meets other requirements set forth in rules of the department.

C. If the contract or employment of a private investigations employee with a private investigation company terminates for any reason, the registration of the individual as a private investigations employee immediately terminates. The private investigations employee shall turn over the employee's registration to the private investigation company upon ceasing employment with that company.

D. A private investigation company shall notify the department within thirty days from the date of termination of employment of a private investigations employee of the employment termination and return the employee's registration to the department.

61-27B-15. Security guard; levels of registration. (Repealed effective July 1, 2024.)

Statute text

A. A security guard shall be registered at one of the three levels enumerated in this section that are based on experience, age and other qualifications of the registrant:

(1) level one is the entry level registration for security guards who will be working in a position not requiring the registrant to carry arms;

(2) level two is the intermediate level registration for security guards who are required to be armed but not with firearms; and

(3) level three is the advanced level registration for security guards who may be required to be armed with a firearm.

B. Each security guard shall receive a card issued by the department in the security guard's name with a definite expiration date that shall be carried by the security guard at all times when the security guard is performing duties that require the security guard to be registered pursuant to the provisions of this section. A security guard is not required to obtain a new card each time the security guard changes employment.

61-27B-16. Security guard; level one; registration; requirements. (Repealed effective July 1, 2024.)

Statute text

A. On or after July 1, 2007, every individual seeking employment or employed as a level one security guard shall file an application for registration with the department.

B. The department shall issue a registration for a level one security guard to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least eighteen years of age;

(2) is of good moral character;

(3) has successfully completed an examination as required by department rule;
(4) has not been convicted of a felony or an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;

(5) has completed a curriculum approved in department rule consisting of level one security guard training prior to being placed on a guard post for the first time as a level one security guard; that training may be provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act [21-23-1 NMSA 1978];

(b) an in-house training program provided by a licensed private patrol company using a curriculum approved by the department; or

(c) any other department-approved educational institution using a curriculum approved by the department and complying with department standards set forth in department rules;

(6) is employed by a private patrol company under the direct supervision of a licensed private patrol operator, a level three security guard or a private patrol operations manager; and

(7) meets other requirements set forth in department rules.

C. A private patrol company shall notify the department within thirty days from the date of termination of a level one security guard of the employment termination.

B-17. Security guard; level two; registration; requirements. (Repealed effective July 1, 2024.)

Statute text
A. On or after July 1, 2007, every individual seeking employment or employed as a level two security guard shall file an application for registration with the department.

B. The department shall issue a registration for a level two security guard to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) meets the requirements to be granted registration as a level one security guard and maintains in good standing a current registration as a level one security guard;

(2) has successfully completed an examination as required by department rule;

(3) possesses a high school diploma or its equivalent;

(4) in addition to the training required to be registered as a level one security guard, has completed a curriculum approved in department rule of level two security guard training prior to being placed on a guard post for the first time as a level two security guard; that training may be provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act [21-23-1 NMSA 1978];

(b) an in-house training program provided by a licensed private patrol company using a curriculum approved by the department;

(c) the New Mexico law enforcement academy; or

(d) any other department-approved educational institution using a curriculum approved by the department and complying with department standards set forth in department rules;

(5) is employed by a private patrol company under the direct supervision of a licensed private patrol operator, a level three security guard or a private patrol operations manager; and

(6) meets other requirements set forth in department rules.

C. A private patrol company shall notify the department within thirty days from the date of termination of a level two security guard of the employment termination.

61-27B-18. Security guard; level three; registration; requirements. (Repealed effective July 1, 2024.)

Statute text

A. On or after July 1, 2007, every individual seeking employment or employed as a level three security guard shall file an application for registration with the department.

B. The department shall issue a registration for a level three security guard to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) is at least twenty-one years of age;
- (2) meets the requirements to be granted registration as a level two security guard and maintains in good standing a current registration as a level two security guard;
- (3) has successfully completed an examination as required by department rule;
- (4) possesses a high school diploma or its equivalent;
- (5) in addition to the training required to be registered as a level two security guard and before the applicant shall be placed for the first time at a guard post as a level three security guard, has completed a curriculum approved by the department consisting of the minimum training for firearm certification prescribed by the department; provided that the additional training required by the department is provided by:

(a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act;

(b) an in-house training program provided by a licensed private patrol company using a curriculum approved by the department;

(c) the New Mexico law enforcement academy; or

(d) any other department-approved educational institution using a curriculum approved by the department and complying with department standards set forth in department rules;

(6) is firearm certified by the New Mexico law enforcement academy or the national rifle association;

(7) is employed by a private patrol company under the direct supervision of a licensed private patrol operator, another level three security guard or a private patrol operations manager;

(8) beginning on July 1, 2009, has successfully passed a psychological evaluation as prescribed by the department to determine suitability for carrying firearms; and

(9) meets other requirements set forth in department rules.

C. A private patrol company shall notify the department within thirty days from the date of termination of a level two security guard of the employment termination.

61-27B-19. Special event permit; nonresident security guard procedure; qualifications; prohibited (Repealed effective July 1, 2024.)

Statute text

A. A private patrol company employing a nonresident security guard temporarily for a special event shall apply to the department for and may be issued a special event permit for each nonresident security guard qualified to be employed at the special event.

B. A special event permit is issued for a specific nonresident security guard and a specific special event and shall not be transferred to another security guard or used for a special event other than for the special event for which the permit is issued.

C. To be issued a special event permit, a private patrol company shall provide the department with a description of the special event, its location and the dates on which the temporary nonresident security guard will be employed to provide services at the special event. A special event permit shall bear the name of the private patrol company and contact information, the name of the nonresident security guard, the name of the special event for which it is issued, the dates of the special event and other pertinent information required by the department.

D. A special event permit shall be issued only to an individual who qualifies for a level one or higher security guard registration and who:

- (1) is not a resident of New Mexico;
- (2) does not hold a registration as a security guard in New Mexico; and
- (3) meets other requirements specified by the department.

E. A special event permit requiring a security guard to carry a firearm shall only be issued to an individual who is qualified to be registered as a level three security guard.

F. It is a violation of the Private Investigations Act [[61-27B-1](#) NMSA 1978] for a private patrol company to circumvent the registration process for permanent or long-term part-time employment of security guards through use of the provisions of this section.

61-27B-20. Fees. (Repealed effective July 1, 2024.)

Statute text

A. The department shall establish a schedule of reasonable fees as follows:

- (1) private investigator fees:
 - (a) application fee, not to exceed one hundred dollars (\$100);
 - (b) initial private investigator's license fee or license renewal fee, not to exceed three hundred dollars (\$300); and
 - (c) initial private investigations manager license fee or license renewal fee, not to exceed two hundred dollars (\$200);
- (2) private patrol operator fees:
 - (a) application fee, not to exceed one hundred dollars (\$100);
 - (b) initial private patrol operator's license fee or license renewal fee, not to exceed three hundred dollars (\$300); and
 - (c) initial private patrol operations manager license fee or license renewal fee, not to exceed two hundred dollars (\$200);
- (3) security guard fees:
 - (a) level one or level two security guard registration fee or registration renewal fee, not to exceed fifty dollars (\$50.00); and
 - (b) level three security guard registration fee or registration renewal fee, not to exceed seventy-five dollars (\$75.00);
- (4) polygraph examiners:
 - (a) application fee, not to exceed one hundred dollars (\$100);

(b) initial polygraph examiner's license fee or license renewal fee, not to exceed four hundred dollars (\$400); and

(c) examination fee, not to exceed one hundred dollars (\$100); and

(5) other fees applying to private investigators, private patrol operators and polygraph examiners:

(a) change in license fee, not to exceed two hundred dollars (\$200);

(b) late fee on license or registration renewals, not to exceed one hundred dollars (\$100);

(c) special event permit fee, not to exceed one hundred dollars (\$100); and

(d) special event license fee for a private patrol company, not to exceed fifty dollars (\$50.00).

B. Fees charged by the department shall not be increased prior to fiscal year 2009.

61-27B-21. License and registration renewal. (Repealed effective July 1, 2024.)

Statute text

A. A license or registration granted pursuant to the provisions of the Private Investigations Act [61-27B-1 NMSA 1978] shall be renewed by the department annually unless the term of the license is set by the department in rule to be a longer period.

B. A licensee or registrant with an expired license or registration shall not perform an activity for which a license or registration is required pursuant to the Private Investigations Act until the license or registration has been renewed or reinstated.

C. The department may require proof of continuing education credits or other proof of competency as a requirement of renewal or reinstatement of a license or registration.

D. A license or registration issued to a person pursuant to the Private Investigations Act shall not be transferred or assigned.

61-27B-22. Display of license; notification of changes. (Repealed effective July 1, 2024.)

Statute text

A. A license shall at all times be posted in a conspicuous place in the principal place of business in New Mexico of the licensee.

B. A copy of the registration of each registrant employed by a private investigation company or a private patrol company shall be maintained in the main New Mexico office of the company and in the branch office in which the registrant works.

C. A registration card issued by the department shall at all times be in the possession of and located on the person of a registrant when working.

D. A security guard shall wear the registration card on the outside of the guard's uniform so that the card is visible to others.

E. A licensee, including owners, officers or directors of a private investigation company or a private patrol company, or a registrant shall notify the department immediately in writing of a change in the mailing or contact address of the licensee or registrant.

F. Failure to notify the department within thirty days of changes required to be reported pursuant to this section or failure to carry or display a registration as required is grounds for suspension of a license or registration.

61-27B-23. General operations provisions of companies; management; liability for employees' conduct; maintenance of records required; required and permitted activities; allowed categories of unlicensed employees. (Repealed effective July 1, 2024.)

Statute text

A. An owner of a private investigation company providing services in New Mexico shall operate, direct, control and manage that company provided that the owner is licensed as a private investigator. An owner of a private investigation company who is not licensed as a private investigator shall employ a private investigator as a private investigations manager and shall turn over the operation, direction, control and management of the private investigation company to that manager.

B. An owner of a private patrol company providing services in New Mexico shall operate, direct, control and manage that company, provided that the owner is licensed as a private patrol operator or registered as a level three security guard. An owner of a private patrol company who is not licensed as a private patrol operator or registered as a level three security guard shall employ a private patrol operations manager and shall turn over the operation, direction, control and management of the private patrol company to that manager.

C. A private investigation company or a private patrol company shall not conduct business under a fictitious name until the company has obtained the authorization for use of the name from the department. The department shall not authorize the use of a fictitious name that may generate public confusion with the name of a public officer or agency or the name of an existing private investigation company or private patrol company.

D. A private investigation company is liable for the conduct of the company's employees, including the conduct of its private investigations manager.

E. A private patrol company is liable for the conduct of the company's employees, including the conduct of its private patrol operations manager.

F. A private investigation company or a private patrol company shall maintain records of the qualifications, performance and training of all of its current and former employees as required by the department. The records are subject to inspection by the department upon reasonable notice to the owner or private investigations manager or private patrol operations manager.

G. Except as otherwise provided in this section, every employee of a licensed private investigation company or private patrol company shall be licensed or registered by the department as employees of the company with which the employee is employed; provided, however, that a licensee or registrant may work for more than one company concurrently.

H. A licensee or registrant shall notify the department in writing within thirty days of each change in the licensee's or registrant's employment by filing an amendment to the licensee's or registrant's application obtained from the department. If a licensee or registrant ceases to be employed by a private investigation company or a private patrol company, the licensee or registrant shall notify the department in writing within thirty days from the date the licensee or registrant ceases employment with that company.

I. A private investigation company or a private patrol company shall notify the department within thirty days of a change in ownership structure or, if a corporation, a change in the membership of the board of directors.

J. Employees of a private investigation company or a private patrol company who are engaged exclusively to perform stenographic, typing, word processing, secretarial, receptionist, accounting, bookkeeping, information technology or other business applications or support functions and who do not perform the work of a private investigator, a private patrol operator or a security guard are

not required to be licensed or registered pursuant to the Private Investigations Act [61-27B-1 NMSA 1978].

K. An individual who is not licensed or qualified to be employed as a private investigations manager or a private patrol operations manager shall not be employed to perform the duties required of those managers.

61-27B-24. Bond required. (Repealed effective July 1, 2024.)

Statute text

A. A private investigation company shall file with the department a surety bond in the amount of ten thousand dollars (\$10,000) executed by a surety company authorized to do business in this state.

B. The owner or the chief executive officer of a private investigation company that provides personal protection or bodyguard services or the owner or the chief executive office of a private patrol company shall maintain a general liability certificate of insurance in an amount required by the department.

C. A surety bond in the amount of ten thousand dollars (\$10,000) or a general liability certificate of insurance executed and filed with the department pursuant to the Private Investigations Act [61-27B-1 NMSA 1978] shall remain in force until the surety company issuing the bond or the certificate has terminated future indemnity by notice to the department.

61-27B-25. Prohibited acts. (Repealed effective July 1, 2024.)

Statute text

A. A licensee or registrant may divulge to a law enforcement officer or district attorney, the attorney general or the attorney general's representatives information the licensee or registrant acquires concerning a criminal offense, but the licensee or registrant shall not divulge to any other person, except as the licensee or registrant is required by law, information acquired by the licensee or registrant except at the direction of the licensee's or registrant's employer or the client for whom the information was obtained.

B. No licensee or registrant shall knowingly make a false report to the licensee's or registrant's employer or the client for whom the information was being obtained.

C. No written report shall be submitted to a client except by the licensee, or a person authorized by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether the facts and information of the report are true and correct.

D. No private investigator, private investigations manager or private investigations employee shall use a badge in connection with the official activities of the licensee's or employee's employment for a private investigation company.

E. No licensee or registrant shall use a title or wear a uniform, use an insignia, use an identification card or make a statement with the intent to give an impression that the licensee or registrant is connected in any way with the federal or state government or a political subdivision of either.

F. No private patrol operator licensee, private patrol operations manager or level three security guard shall use a badge except when engaged in guard or patrol work and while wearing a uniform.

G. No licensee or registrant shall appear as an assignee party in a proceeding involving a claim and delivery action to recover or possess property or action for foreclosing a chattel mortgage, mechanic's lien, materialman's lien or any other lien.

H. A polygraph examiner shall not ask questions during the course of a polygraph examination relative to sexual affairs of an examinee, the examinee's race, creed, religion or union affiliation or an activity not previously and specifically agreed to by written consent.

61-27B-26. Denial, suspension or revocation of license or registration. (Repealed effective July 1, 2024.)

Statute text

In accordance with procedures contained in the Uniform Licensing Act [61-1-1 NMSA 1978], the department may deny, suspend or revoke a license or registration held or applied for under the Private Investigations Act [61-27B-1 NMSA 1978] or reprimand or place on probation a licensee or registrant upon grounds that the licensee, registrant or applicant:

- A. made a false statement or gave false information in connection with an application for a license or registration or renewal or reinstatement of a license or registration;
- B. violated a provision of the Private Investigations Act;
- C. violated a rule of the department adopted pursuant to the Private Investigations Act;
- D. has been convicted of a felony or any crime involving dishonesty or illegally using, carrying or possessing a deadly weapon;
- E. impersonated or permitted or aided and abetted an employee of a private investigation company or private patrol company to impersonate a law enforcement officer or employee of the United States or of a state or political subdivision of either;
- F. committed or permitted an employee of a private investigation company or a private patrol company to commit an act while the license or registration of the person licensed or registered pursuant to the Private Investigations Act was expired that would be cause for the suspension or revocation of a license or registration or grounds for the denial of an application for a license or registration;
- G. willfully failed or refused to render to a client services or a report as agreed between the parties, for which compensation has been paid or tendered in accordance with the agreement of the parties;
- H. committed assault, battery or kidnapping or used force or violence on a person without justification;
- I. knowingly violated or advised, encouraged or assisted the violation of a court order or injunction in the course of business of the licensee or registrant;
- J. knowingly issued a worthless or otherwise fraudulent payroll check that is not redeemed within two days of denial of payment by a bank;
- K. has been chronically or persistently inebriated or addicted to the illegal use of dangerous or narcotic drugs;
- L. has been adjudged mentally incompetent or insane by regularly constituted authorities;
- M. while unlicensed, committed or aided and abetted the commission of any act for which a license is required under the Private Investigations Act; or
- N. has been found to have violated the requirements of a state or federal labor, tax or employee benefit law or rule.

61-27B-27. Hearing; penalties. (Repealed effective July 1, 2024.)

Statute text

A. A person who is denied a license or registration or who has a license or registration suspended or revoked shall be entitled to a hearing before the department if within twenty days after the denial, suspension or revocation a request for a hearing is received by the department. The procedures of the Uniform Licensing Act shall [61-1-1 through 61-1-31 NMSA 1978] be followed pertaining to the hearing to the extent that they do not conflict with the provisions of the Private Investigations Act.

B. In accordance with the provisions of the Uniform Licensing Act, and in addition to other penalties provided by law, the department may impose the following:

(1) for a violation of the Private Investigations Act, a civil penalty not to exceed one thousand dollars (\$1,000) for each violation; and

(2) against a person who is found by the department to be engaging in a practice regulated by the department without an appropriate license or registration, civil penalties not to exceed two thousand dollars (\$2,000).

61-27B-28. License not transferable. (Repealed effective July 1, 2024.)

Statute text

A. A license or registration issued pursuant to the Private Investigations Act [61-27B-1 NMSA 1978] shall not be transferred or assigned.

B. The department shall adopt by rule procedures for changes in the name or management of a private investigation company or private patrol company. If the private investigation company or private patrol company fails to comply with the procedures established by department rule, the private investigation company or private patrol company shall be considered to be operating without a license.

61-27B-29. Local regulations. (Repealed effective July 1, 2024.)

Statute text

The provisions of the Private Investigations Act [61-27B-1 NMSA 1978] shall not prevent the local authorities of a city or county by ordinance and within the exercise of the police power of the city or county from imposing local ordinances upon a street patrol special officer or on a person licensed or registered pursuant to the Private Investigations Act if the ordinances are consistent with that act.

61-27B-30. Fund established. (Repealed effective July 1, 2024.)

Statute text

A. The "private investigations fund" is created in the state treasury.

B. All license and registration fees received by the department pursuant to the Private Investigations Act [61-27B-1 NMSA 1978] shall be deposited in the fund and are appropriated to the department to be used for the administration and implementation of that act.

C. The state treasurer shall invest the fund as other state funds are invested, and all income derived from investment of the fund shall be credited to the fund.

D. All balances in the fund shall remain in the fund and shall not revert to the general fund.

E. The department shall administer the fund, and money in the fund shall be expended by warrant issued by the secretary of finance and administration on vouchers signed by the superintendent of regulation and licensing.

F. No more than five percent of the fund shall be used by the department for administration of the fund.

61-27B-31. Firearms. (Repealed effective July 1, 2024.)

Statute text

A private investigator, a private patrol operator, a private investigations employee, a level three security guard or a private patrol operations employee may carry a firearm upon successful completion of the mandatory firearm training required by rules of the department.

61-27B-32. Penalties. (Repealed effective July 1, 2024.)

Statute text

A. A person who engages in a business regulated by the Private Investigations Act [[61-27B-1](#) NMSA 1978] who fraudulently makes a representation as being a licensee or registrant is guilty of a misdemeanor and if convicted shall be sentenced pursuant Section [31-19-1](#) NMSA 1978.

B. An individual who fraudulently represents that the individual is employed by a licensee is guilty of a petty misdemeanor and if convicted shall be sentenced pursuant to Section [31-19-1](#) NMSA 1978.

C. A person who violates a mandatory requirement, as set forth by the department in rule, of the Private Investigations Act, is guilty of a petty misdemeanor except as provided in Subsection A of this section and if convicted shall be sentenced pursuant to Section [31-19-1](#) NMSA 1978.

61-27B-33. Reciprocity. (Repealed effective July 1, 2024.)

Statute text

A. The department may enter into a reciprocity agreement with another state for the purpose of licensing or registering applicants to perform activities regulated by the Private Investigations Act [[61-27B-1](#) NMSA 1978].

B. An applicant from another state at the time of application for licensure or registration in New Mexico shall be licensed or registered in that other state to perform the services for which the applicant is seeking a New Mexico license or registration.

C. The department may develop rules that allow for reciprocity on a temporary or limited basis without requiring an applicant licensed or registered in another state subject to a reciprocity agreement to be licensed or registered in New Mexico; provided that the state of licensure or registration:

- (1) has licensure or registration requirements that meet or exceed those of New Mexico;
- (2) has no record of disciplinary action taken against the applicant in the last year; and
- (3) can verify that the applicant has engaged in activities for at least one year in the state with reciprocity that are required to be licensed or registered pursuant to the Private Investigations Act.

61-27B-34. Background investigations. (Repealed effective July 1, 2024.)

Statute text

A. The department shall adopt rules that:

(1) are developed in conjunction with the department of public safety that require background investigations of all persons licensed or registered pursuant to the Private Investigations Act [[61-27B-1](#) NMSA 1978] to determine if the person has a criminal history;

(2) require all applicants for licensure or registration to be fingerprinted on two fingerprint cards or electronically as required for submission to the federal bureau of investigation to conduct a national criminal history investigation and for submission to the department of public safety to conduct a state criminal history investigation;

(3) provide for an applicant to inspect or challenge the validity of the record developed by the background investigation if the applicant is denied a license or registration; and

(4) establish a fee for fingerprinting and conducting a background investigation for an applicant.

B. Arrest record information received from the federal bureau of investigation and department of public safety shall be privileged and shall not be disclosed to individuals not directly involved in the decision affecting the specific applicant or employee.

C. The applicant shall pay the cost of obtaining criminal history information from the federal bureau of investigation and the department of public safety.

D. Electronic live scans may be used for conducting criminal history investigations.

61-27B-35. Temporary provision; transition.

Same text

A. A security guard, watchman, loss prevention officer or patrolman licensed pursuant to the Private Investigators and Polygraphers Act prior to July 1, 2007 shall apply for registration pursuant to the Private Investigations Act [61-27B-1 NMSA 1978] prior to October 31, 2007 to receive registration without meeting the examination or educational requirements of the Private Investigations Act.

B. Between July 1, 2007 and October 31, 2007, an individual shall be registered as a level three security guard without examination or further qualification by the regulation and licensing department if the individual:

(1) worked as a security guard, watchman, loss prevention officer or patrolman for the five years immediately preceding July 1, 2007 and was licensed by the regulation and licensing department to perform that work; and

(2) was authorized pursuant to the Private Investigators and Polygraphers Act prior to July 1, 2007 to carry a firearm in the course of the individual's employment.

C. A security guard, watchman, loss prevention officer or patrolman who is not qualified pursuant to Subsection B of this section to be registered as a level three security guard shall be registered by the regulation and licensing department as a level one security guard if the individual applies for registration pursuant to the Private Investigations Act between July 1, 2007 and October 31, 2007, except as provided in Subsection D of this section.

D. If the regulation and licensing department finds, upon application by a security guard, watchman, loss prevention officer or patrolman who is employed in that capacity prior to July 1, 2007, that the applicant has applied in a timely manner and presents exceptional circumstances, as determined by the regulation and licensing department, in which the applicant demonstrates cause for that applicant to be registered as a level two security guard, the department in its discretion may register the security guard applicant as a level two security guard without examination or further qualification.

E. A private investigator or private patrol operator holding a certificate of deposit or surety bond in the sum of two thousand dollars (\$2,000) shall be exempt from the bond provisions of the Private Investigations Act, provided that the private investigator's or private patrol operator's license remains current and the holder remains in good standing with the regulation and licensing department.

F. A rule adopted by the regulation and licensing department pursuant to the Private Investigators and Polygraphers Act shall remain in effect until the regulation and licensing department adopts rules to implement the Private Investigations Act.

G. The regulation and licensing department shall continue to register and license individuals pursuant to the Private Investigators and Polygraphers Act until July 1, 2007, or, if rules are not adopted by the regulation and licensing department to implement the Private Investigations Act by July 1, 2007, until the regulation and licensing department adopts rules to implement the Private Investigations Act. However, rules shall be adopted and the regulation and licensing department shall begin to license and register applicants pursuant to the Private Investigations Act no later than September 1, 2007.

H. Money in the private investigator and polygrapher fund is transferred on July 1, 2007 to the private investigations fund.

I. Except as provided in Subsections C and D of this section, a person licensed or registered pursuant to the Private Investigators and Polygraphers Act prior to July 1, 2007 shall be licensed or registered pursuant to the Private Investigations Act on or after July 1, 2007 at a level of licensure or registration equivalent to that level that the person held prior to July 1, 2007 without further training or examination; provided that the person:

(1) applies for licensure or registration pursuant to the Private Investigations Act no later than October 31, 2007;

(2) shall be subject to any disciplinary proceedings initiated prior to July 1, 2007 or disciplinary action resulting from the proceedings due to the licensee's or registrant's unethical conduct or actions or inactions taken in violation of the Private Investigators and Polygraphers Act; and

(3) remains otherwise eligible to be licensed or registered pursuant to the Private Investigations Act.

61-27B-36. Termination of agency life; delayed repeal. (Repealed effective July 1, 2024.)

Statute text
The private investigations advisory board is terminated on July 1, 2023 pursuant to the Sunset Act [[12-9-11](#) through [12-9-21](#) NMSA 1978]. The board shall continue to operate according to the provisions of the Private Investigations Act until July 1, 2024. Effective July 1, 2024, Chapter [61](#), Article [27B](#) NMSA 1978 is repealed.

History
