

NOTICE OF PROPOSED RULEMAKING AND RULE HEARING

The Private Investigations Advisory Board will hold a rule hearing on Friday, March, 31st, 2023 at 10:00 a.m. The rule hearing will be held at 5500 San Antonio Dr. NE, Albuquerque, NM 87109.

via Cisco Webex please use the following link:

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e96336860d9b3c0227ae3e3b8464f859>

To join the meeting by phone: 1-415-655-0002 United States Toll

Access Code: 2488 317 5098

The purpose of the rule hearing is to consider the proposed rule amendments to Title 16, Chapter 48, Part 1 and Part 2 of the New Mexico Administrative Code as follows:

16.48.1 NMAC – General Provisions

16.48.2 NMAC – Requirements for Licensure and Registration

On February 14th, 2023 you may obtain and review copies of the proposed changes and public comments, by going to the Private Investigations Advisory Board (Board) website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/private-investigations/pi-board-information/pi-board-meetings/> or by contacting the Board Administrator at (505) 476-4650.

The Board/Commission will begin accepting public comments on the proposed amended rules beginning February 14th, 2023. Please submit written comments on the proposed changes to Richard Espinoza, Board Administrator, via electronic mail at: pipolygraphbd@rld.nm.gov, or by regular mail at P.O. Box 25101, Santa Fe, NM 87504 no later than Wednesday, March 29th, 2023. Comments received prior to the rule hearing will be posted to the RLD website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/private-investigations/pi-laws-rules-and-policies/>. Every person attending the rule hearing will be given the opportunity to present their public comments at the rule hearing.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Richard Espinoza, Board Administrator (505) 476-4658.

Statutory Authority:

The proposed rule changes are authorized by the Private Investigations Act, Section 61-27B-5 NMSA 1978, which provides explicit authority for the Regulation and Licensing Department (Department) to promulgate rules to carry out the provisions of the Private Investigations Act.

Summary of Proposed Changes:

Changing licensure requirements for all licenses issued by the Board:

All applicants seeking licensure under the Private Investigations Act, pursuant to Section 61-27B-34, NMSA 1978, are required to submit to a biometric federal criminal history background check. Owners, directors, and officers of private investigation companies and private patrol companies are also required to submit to a biometric federal criminal history background check. Private patrol companies must provide employed security guards, or those providing security guard services under contract, with a company-specific photo identification badge.

A private investigations company must retain a surety bond in the amount of ten thousand dollars to maintain licensure with the department. A private investigations company that provides personal protection or bodyguard services must maintain a general liability insurance certificate in the amount of one million dollars. A private patrol company must maintain a general liability insurance policy in the amount of one million dollars.

Applicants who have a current active license to practice polygraphy in another jurisdiction whose standards are equal to or greater than those in New Mexico for a minimum of two years immediately preceding the date of application, and no pending or formal disciplinary actions issued against the license for the last five years, are not required to complete the 6-month probationary period.

Training and examination for Level One, Level Two, and Level Three Security officers must be conducted pursuant to the curriculum provided by the department and must be taught by an in-person department approved instructor.

Adds a limited exemption to licensure for private investigators. Adds a section outlining the requirements for reciprocal licensure for applicants from other states.

Purpose of the Proposed Changes:

The purpose of the proposed rules is to comply with the current New Mexico statutes governing the Private Investigations Act. The proposed rules also address the requirements for reciprocal licensure under the Act. More generally, the proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, and to satisfy the Department's statutory obligation to promulgate rules necessary to carry out the provisions of the Act.

16.48.1.14 Display of Registration or License and Notification of Changes

- A private patrol company must provide employed, or contracted, licensees with a photo identification badge displaying a photo of the licensee and providing the name of the employer and name of the licensee.

16.48.2.8 Bond General Liability and Biometric Criminal History Report Requirement

- A private investigations company must retain a surety bond in the amount of ten thousand dollars to maintain licensure with the department.

- A private investigations company that provides personal protection or bodyguard services must maintain a general liability insurance certificate in the amount of one million dollars.

16.48.10 Qualifications and Experience Requirements for Applicants for a Private Investigation Company License

- Each owner, director, and officer must submit to a biometric federal criminal history background check.
- Requires a private investigation company to retain and file with the department a surety bond in the amount of ten thousand dollars.

16.48.2.11 Qualifications and Experience Requirements for Applicants for a Private Investigation Manager License

- A private investigations manager must be employed by, or provide services on a contract basis to, a private investigation company and be responsible for managing the daily operations of the company.

16.48.2.12 Qualifications and Experience Requirements for Applicants for a Private Investigations Employee Registration

- A private investigations employee who is employed by, or provides services on a contract basis, must be under the direct supervision of a New Mexico licensed private investigator in good standing.

16.48.2.13 Qualifications and Experience Requirements for Applicants for a Private Patrol Operator License

- Pursuant to Section 61-27B-10, NMSA 1978, the applicant must submit proof of at least three years' experience of actual work performed as a security guard or the equivalent.

16.48.2.14 Qualifications and Experience Requirements for Applicants for a Private Patrol Company License

- The private patrol company must provide the name and license number of an owner who is licensed as a private patrol officer, or a licensed private patrol manager, and certification that they will manage the daily operations of the company.

- A private patrol company must maintain a general liability insurance policy in the amount of one million dollars.

- Each owner, director, and officer must submit to a biometric federal criminal history background check.

16.48.2.15 Qualifications and Experience Requirements for Applicants for a Private Patrol Operations Manager License

- A private patrol operations manager must be employed by, or provide services on a contract basis to, a private patrol company and be responsible for managing the daily operations of the company.

16.48.2.16 Qualifications and Experience Requirements for Applicants for a Polygraph Examiner

License

- Applicants who have not been licensed for a minimum of two years immediately prior to the date of the application must complete a six-month probationary period under the supervision of a New Mexico Licensed Polygraph Examiner.
- Applicants who have a current active license to practice polygraphy in another jurisdiction whose standards are equal of greater than those in New Mexico for a minimum of two years immediately preceding the date of application, and no pending or formal disciplinary actions issued against the license for the last five years, are not required to complete the probationary period.

16.48.2.17 Level One Security Guard Applicant Qualifications and Experience Requirements

- Training and examination must be conducted pursuant to the curriculum provided by the department and must be taught by an in-person department approved instructor. (Removes requirement that the instructor must be approved by the superintendent)

16.48.2.18 Level Two Security Guard Applicant Qualifications and Experience Requirements

- Training and examination must be conducted pursuant to the curriculum provided by the department and must be taught by an in-person department approved instructor. (Removes requirement that the instructor must be approved by the superintendent)

Electronic non-lethal device training shall be done in accordance with manufacturer requirements for any device carried or utilized by the registrant.

16.48.2.19 Level Three Security Guard Applicant Qualifications and Experience Requirements

- Training and examination must be conducted pursuant to the curriculum provided by the department and must be taught by an in-person department approved instructor. (Removes requirement that the instructor must be approved by the superintendent)

16.48.2.24 Limited Exemption to Licensure

- An investigator licensed in another state may conduct business in New Mexico only if the investigation must be initiated in the investigator's home state, the investigator may spend no more than 30 days per case while conducting an investigation in another state; the investigator is prohibited from soliciting business in New Mexico and from establishing a business or setting up a residence while conducting an investigation in New Mexico.

16.48.2.25 Reciprocity

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