CHAPTER 93-02-01.1
PRIVATE INVESTIGATIVE SERVICES

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93-02-01.1-01. Qualifications for individuals providing private investigative services.

To receive and maintain any license or registration from the board to provide private investigative services, an individual first must:

1. Be at least eighteen years of age.

2. Be a high school graduate or hold the equivalent of a high school diploma.

3. Have not been convicted or adjudged guilty in any jurisdiction of one of the following offenses or its equivalent in another jurisdiction, including juvenile adjudications that the individual has engaged in similar conduct: any felony; any class A or B misdemeanor involving an act of violence or intimidation as defined in North Dakota Century Code chapters 12.1-16 through 12.1-25 and chapter 12.1-31.2, or involving controlled substances as defined in North Dakota Century Code chapter 19-03.1; any offense involving theft as defined in North Dakota Century Code chapter 12.1-23, including shoplifting; or any other offense that must be reported to the North Dakota bureau of criminal investigation under North Dakota Century Code section 12.1-32-15. This subsection does not prohibit the board from issuing a license or registration to an individual if the board determines the offense does not have a direct bearing upon the individual's ability to provide private investigative services to the public and the individual has been sufficiently rehabilitated pursuant to the provisions of North Dakota Century Code section 12.1-33-02.1, or a full pardon has been granted.

4. Be free of mental condition or defect that would interfere with the individual's ability to provide services in a professional and competent manner.

5. Have not committed an act that the board determines is indicative of bad moral character and which has a direct bearing on the applicant's ability to serve the public, including offenses other than those listed in subsection 3.

The requirements in this section are in addition to any other qualifications established in this chapter. Each individual who is required to meet the qualifications of this section has a continuing duty to notify the board of any conviction or adjudication of guilt of an offense described in subsection 3 within fourteen days of the conviction or adjudication. For individuals who are licensed or registered by the board on May 1, 2000, or who are officers or owners of at least a ten percent interest in a licensed agency on May 1, 2000, this section applies only to convictions or adjudications of guilt which occur after May 1, 2000.

History: Effective May 1, 2000.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04, 43-30-05, 43-30-06

93-02-01.1-02. Licensing of individuals providing private investigative services.

1. An individual providing private investigative services must obtain a license from the board to provide those services unless the individual is registered as an employee or independent contractor of an agency that is licensed under this chapter and is providing those services within the scope of the individual's relationship with the agency. An agency is responsible for registering its employees and independent contractors under section 93-02-01.1-04. This section does not apply to individuals who are exempt from the board's jurisdiction under North Dakota Century Code section 43-30-02.

2. An individual is qualified to be licensed to provide private investigative services if the individual has passed an examination conducted by or under the supervision of the board within the twelve months preceding the date of the individual's application for the license and has provided two thousand hours of private investigative services as a registered employee of a detective agency. The experience requirement in this subsection does not apply to an individual who holds a license on May 1, 2000, unless the individual's license lapses and is not renewed within one year pursuant to section 93-02-03-03.

History: Effective May 1, 2000; amended effective May 1, 2005.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04, 43-30-05, 43-30-06

93-02-01.1-03. Licensing of detective agencies.

Any individual or entity hiring another person to perform private investigative services must obtain a detective agency license. An individual who applies for an agency license must be currently licensed in this state to provide private investigative services. An entity that applies for an agency license must have at least one individual who serves as the qualifying agent for that entity, and who will be responsible for all agency personnel providing those services. The qualifying agent must be an individual agent who is an officer, director, partner, proprietor, or manager of the agency who exercises material authority in the conduct of the agency's business by making substantive technical and administrative decisions relating to the work performed for which a license is required and who is not involved in any other employment or activity which conflicts with these duties and responsibilities to ensure the agency's performance of work regulated under this chapter complies with applicable laws and does not jeopardize the public health, safety, and welfare. The qualifying agent and all nonlicensed officers and owners of at least a ten percent interest in the entity must be listed on the application and meet the qualifications in section 93-02-01.1-01.

History: Effective May 1, 2000; amended effective April 1, 2013.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04, 43-30-09

93-02-01.1-04. Registration of employees and independent contractors of detective agencies.

1. For the purposes of this chapter, the terms "employee" and "employment" refer to an employer-employee relationship in which the employee is working for compensation, the employer directly or indirectly controls the employee's conduct, and the employer pays taxes or makes other payments because of the employment.

2. An individual providing private investigative services as an employee or independent contractor of a detective agency who is not licensed to provide those services must have a

registration from the board. The agency is responsible for obtaining registration for all of its employees and independent contractors.

3. A detective agency may not employ or contract with an unregistered or unlicensed person to provide private investigative services on behalf of the agency. A person employed or contracted by a detective agency who does not provide any private investigative services need not be registered or licensed.

4. A detective agency is responsible for any activities of its licensed or registered employees and independent contractors and may be subject to administrative action by the board for the activities of its licensed or registered employees and independent contractors.

5. A registered employee or independent contractor may not provide private investigative services unless the employee or independent contractor is under the supervision of an individual who is licensed to provide private investigative services.

History: Effective May 1, 2000; amended effective May 1, 2005.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04, 43-30-05, 43-30-16

93-02-01.1-05. Armed personnel - Possession and use of firearms in the course of providing private investigative services.

It is unlawful for any individual, including agency personnel, to carry a firearm while providing private investigative services unless the individual carrying the firearm:

1. Is in compliance with all existing state and federal laws governing weapons or firearms, including certification and licensing when necessary;

2. Has completed the same requirements for firearms training as is required for North Dakota peace officers. If the individual fails the written examination or shooting course twice, the individual must wait at least thirty days to retake the failed portion, and if the individual fails the written examination or shooting course a third time, the individual must wait a full year before retaking the written examination or shooting course; and

3. Has provided at least one thousand hours of private investigative or private security services.

History: Effective May 1, 2000; amended effective May 1, 2005; July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04

93-02-01.1-06. Equivalency.

The board may waive part of or all of any training or experience requirements for individuals licensed or registered by the board based upon equivalent training or experience in any combination of the following: private security or private investigation in another state with equal or similar requirements; law enforcement in any jurisdiction with equal or similar requirements; military investigation; proprietary investigation, provided that equal or similar requirements for training as required by this chapter were met; or equivalent training in any educational institution in relevant subject matters.

History: Effective May 1, 2000.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04

93-02-01.1-07. Prohibitions.

1. An individual, while providing private investigative services, may not:

   a. Wear, carry, use, display, or possess any identification, badge, uniform, patch, insignia, sign, decal, or other form of identification;

   b. Make or utter any statement; or

   c. Use, control, possess, or own any motor vehicle of any kind which is marked or identified by any sign, insignia, decal, equipment, device, or contrivance;

   which could or might reasonably lead the general public to believe or assume that the individual has any police-type powers or that the individual or vehicle is associated in any way with a governmental law enforcement agency or other governmental agency. Examples of prohibited conduct include use of the word "police", the great seal of the state of North Dakota, or the seal of any political subdivision; or use of any type of common or customary military rank.

2. An individual licensed or registered by the board under this chapter, including the holder of an agency license, may not be employed full time or part time in any capacity wherein such individual has any police-type powers or access to any official law enforcement records.

3. An individual licensed or registered by the board under this chapter may not solicit or accept any commission or deputization that in any way involves the authority to use or employ, or the use or employment of, any police-type powers, except that of a special deputy sheriff or special police officer, and then, only in the case of an emergency or disaster and only for the immediate time of the emergency or disaster.

4. As used in this section, positions with police-type powers do not include official volunteer civil defense positions or membership in the national guard, reserve, or regular armed forces of the United States, but include positions or membership in the military police, security police, or similar police functions of the regular armed forces of the United States.

5. Expert witnesses, including law enforcement officials, are exempt from being licensed or registered to provide private investigative services when used to review or research information that has been gathered or a field review of the scene is conducted, so long as there is not personal contact, such as interviewing witnesses, suspects, or victims or the use of confidential law enforcement information or records.

History: Effective May 1, 2000.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 12.1-13-04

93-02-01.1-08. Surety requirements.

1. Before a license to provide private investigative services can be issued to any individual or agency, the applicant must file with the board a certificate of insurance executed by the applicant and by a surety company or insurance company in the sum of three hundred thousand dollars of general liability with errors and omissions insurance.

2. The certificate of insurance must be conditioned on the faithful and honest conduct of the business of the applicant and the applicant's agents, employees, and independent contractors, and for the full protection of any person who deals with the applicant or the applicant's agents, employees, and independent contractors. The certificate of insurance must provide that any person injured by the breach of the conditions of the insurance policy may bring an action on that insurance policy in the name of the state of North Dakota for the use of

the person so injured to recover legal damages suffered by reason of breach of the conditions; provided, however, that the aggregate liability of the insurance policy for all damages may, in no event, exceed the sum of the insurance policy. The insurance underwriter may cancel the policy upon giving thirty days' notice in writing to the board and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

History: Effective May 1, 2000; amended effective May 1, 2005.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04

93-02-01.1-09. License - Posting.

Each individual who, or agency that, is licensed by the board shall conspicuously display that license at all times in the licensee's place of business. If the licensee has more than one office as a place of business, the licensee shall display a duplicate license at each office. An agency need not display the licenses of all the individual licensees employed or contracted by the agency. If the board revokes, suspends, or disapproves renewal of any license, the board may require the holder of the license to return the license to the board within fourteen days.

History: Effective May 1, 2000; amended effective May 1, 2005.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-05

93-02-01.1-10. Issuance of pocket cards.

1. To each individual licensed or registered by the board, the board shall issue a pocket card. The board will not issue a pocket card to an individual performing private investigative services for a detective agency on a contractual basis if that individual is already licensed as a private investigator. Each individual licensed or registered by the board shall have on that individual's person, the pocket card issued while providing private investigative services.

2. When a registered employee or independent contractor of a detective agency terminates employment or a contract with the agency, that individual shall return the pocket card to the agency immediately after termination. Within seven days after receiving the pocket card of the terminated individual, the agency shall mail or deliver the pocket card to the board for cancellation, with a letter from the holder of the agency license stating the date the registered individual was terminated and the date the agency received the terminated individual's card.

3. If the board revokes, suspends, or disapproves the renewal of a license or registration of any individual, the board may require the individual to return the individual's pocket card within fourteen days.

4. If the board revokes, suspends, or disapproves renewal of a detective agency license, the board may require the agency to return the pocket cards of all its registered employees and independent contractors within fourteen days of the request by the board.

History: Effective May 1, 2000; amended effective May 1, 2005; July 1, 2018.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-05

93-02-01.1-11. Change in ownership or other application information.

An agency license is not transferable. A licensed detective agency must notify the board in advance of any change in ownership of the agency and a new license application form must be submitted to the board by the new owner or owners. Payment of license fees is nontransferable. Each agency licensed by the board has a continuing duty to notify the board about any changes in information provided in the license application form within fourteen days of the change.

History: Effective May 1, 2000.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-05

93-02-01.1-12. Examination restrictions.

Any applicant for a license to provide private investigative services who fails to pass the first examination required by the board may apply for retesting no sooner than thirty days after notice of failure. Upon failure of a second and subsequent examination, the applicant may apply for retesting again after a one-year waiting period.

History: Effective May 1, 2000.
General Authority: NDCC 43-30-04
Law Implemented: NDCC 43-30-04, 43-30-16