

September 2, 2023

From:

Dean Wiley
IMFs Corporation
112 South Wilson Avenue
Dunn, NC 28334
dw@mldragon.com

To:

North Carolina Office of Administrative Hearings
Rules Review Commission
oah.rules@oah.nc.gov

**Request for Legislative Review and Delayed (or Denied) Effective Date
“Proposed Changes to North Carolina Administrative Code Chapter 12 Subchapter 9F (12 NCAC 09F)
Concealed Handgun Training”**

Full background at <http://imfscorp.com/july-2023-efforts-against-nc-cch-proposed-changes/> (most of August ‘updates’ not noted at the page)

The entirety of the “process” has been illegal (disregard for, and direct violation of, Statute[s]) and unlawful (disregard for, and direct violation of, Administrative Code[s]).

https://www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter_150b.html

x x x x

§ 150B-19. Restrictions on what can be adopted as a rule.

(indented) An agency may not adopt a rule that does one or more of the following:

- (1) Implements or interprets a law unless that law or another law specifically authorizes the agency to do so.
 - a. The North Carolina Private Protective Services Act § 74C does not “authorize” CJETS, NCDOJ, or CJS Division to “implement or interpret” § 74C (see below, (2) and other agencies)
 - b. Nowhere does § 14-415 “authorize” CJETS, NCDOJ, or CJS Division to “audit, attend, or collect any information at all about private classes” given as – or including – the subject matter, ideas or terminologies of “Concealed Carry Handgun.” The Constitutions (as amended) of the United States of America, and all versions of North Carolina’s, specifically exclude “government agents” from “unwarranted” intrusion in the private “affairs” of the People. A “willful invitation” must be extended to the government for a “friendly encounter” to take place.

- c. Nowhere does § 14-415 generally, but § 14-415.12A specifically, “allow” or “authorize” any “agency or sub-division of government” to “disqualify” any of the three (3) “exempted person[s]”. see (2) below
- (2) Enlarges the scope of a profession, occupation, or field of endeavor for which an occupational license is required.
 - a. The North Carolina Private Protective Services Act § 74C establishes the Private Protective Services Board as “an occupational licensing body (board, or commission).” The “proposed rule changes” would require “expansion” of the obligations of the “Firearms Trainers” and the Board itself to meet the pre- and post- -delivery, the maintenance of ‘rosters,’ and other ‘administrative cost-prohibitive’ requirements. (see cost analysis and other agencies below, law above)
- (3) (purposefully blank)
- (4) Repeats the content of a law, a rule, or a federal regulation[.]
 - a. The entirety of this current ‘confusion’ was caused by inexpert ideas in the NC Legislature, Executive, and Administrative bodies. The primary ‘inexpert’ notion that was ‘forced through’ is that “the law and code must match” without any consideration, and repeated “denials” of the existence of “other law” or “sub-division of law.” (see: law above, § 14-415.12A, § 74C)
- (5) Establishes a fee or other charge for providing a service in fulfillment of a duty unless a law specifically authorizes the agency to do so...
 - a. CJETS nor CJS (through NCDNJ) are “specifically authorized” to charge for certificates. They (CJETS) are only to “approve and provide” them. (This is ‘since the inception.’)
 - b. CJETS nor CJS (through NCDNJ, NCJA) are “specifically authorized” to charge for books or other training materials. (This is ‘since the inception, but made worse by the proposed rule to require Red Books.’)

§ 150B-19.1. Requirements for agencies in the rule-making process.

- (a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:
 - (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
see Law above. CJETS, NCDNJ, CJS are not expressly authorized and the proposed changes cannot be “argued” to be in the service of the public interest. Several “employees” or “agents” have only been able to give 2-3 examples of “possible abuse” by Instructors over several years. In the examples given, CJETS, NCDNJ, and/or CJS – having also included NCSBI – have written and verbally admitted/confessed that “if not for our incompetence these instructors would have been punished.” (see next (2))
 - (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
None of the proposed rule(s) change(s) reduce the burden. They all create burdens and defeat the principle at (1)(directly above) of “serv[ing] the public interest.” CJETS, NCDNJ

and CJS incompetently, arrogantly, and incorrectly posit that these proposed rule changes would “cure” their incompetence and willful refusal to do their jobs. (see law above, and (d) below)

- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.

(As the Legislatures and the Governors of North Carolina have not been able to make the laws regarding “Concealed Carry Handgun” “clear and unambiguous” since the inception of “the program” the CJETS, NCDOJ and CJS are not able to be “held accountable/responsible” for their inability to make “clear and unambiguous” the rules (administrative code).)

- (b) (intentionally blank)

- (c) Each agency subject to this Article shall post on its Web site, no later than the publication date of the notice of text in the North Carolina Register, all of the following: (list omitted)

- (1) No ‘posting’ to the site and/or web pages exists to this day.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its Web site as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rule-making agency, the staff shall publish the proposed change on the agency's Web site as soon as practicable after the change is drafted. (Again, even after the meeting and a demand for ‘status’ with reply from J. Smythe that he would “respond factually early next week” (the week of August 14-18), there is nothing posted to the site and/or web-pages.)

- (d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

- (1) The Private Protective Services Board (PPSB) has not, to this day, been “contacted by,” let alone afforded the opportunity to “coordinate with,” CJETS, NCDOJ, or CJS. Mister Richard Epley is a “Member” of the PPSB and a “Member” or “Commissioner” of the “CJS Division.” Likewise, PPSB has made no efforts to contact or coordinate with anyone else.

- (2) The “proposed rules” would require every “qualifying class” – including all types of “BLET” firearms classes and in-service firearms training – to turn in pre- and post-delivery reports, maintain rosters (that no one is allowed to see), provide “Red Books” to all NC Law Enforcement Trainees and/or Officers/Deputies/Agents. (See “clear and unambiguous” above: it is totally unclear if Law Enforcement “students” and/or “Security” (PPSB) students would have to purchase \$2.00 certificates as well as “ONLY CCH class participants.” Also, see costs above and below)

- (3) It is already “unduly burdensome” that the “unlawful” (not allowed or authorized in law or code) “contractor” (permitium) will not except any other than the “CJS Certificates” for Law Enforcement and Security.

- (e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S.

150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

- (1) No government “agency” (or office) has “quantified” the costs to the “agency” itself, the “regulated/licensed instructors” or any other party. CJETS, NCDOJ, and CJS check the box in their submission that “no fiscal note” is/was required.
 - (2) PPSB continues to “willfully refuse” to acknowledge that they are “involved or effected.”
 - (3) CJETS, NCDOJ, and CJS “willfully refuse” to “listen” to the practical reality of “administrative and paperwork costs, let alone redundant or unnecessary book purchases” by private business owners and managers. (see “Public Interest” above. ‘Arrogantly and indifferently’ being inconsiderate and belittling Tax Payers and “Owners, Operators and Managers of Private Enterprise” is not only against the principals of “Justice,” but is also a direct violation of this subdivision of law (“to all parties”).
- (f) If the agency determines that a proposed rule will have a substantial economic impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to the proposed rule. The alternatives may have been identified by the agency or by members of the public.
- (1) (see above (e)) (CJETS, NCDOJ, and) CJS “willfully refuses to” or “by incompetence fails to” acknowledge the PPSB, all of the schools of BLET, and each and every Law Enforcement Department, Agency or Office in NC. Because CJS does not “acknowledge and consider” these “agencies” at all – let alone the “public/private instructors” – CJS does not “determine” (even unto themselves) any “economic impact.”

§ 150B-21. Agency must designate rule-making coordinator; duties of coordinator.

CJETS, NCDOJ, and CJS have not made it known in a “clear and unambiguous” manner who the “coordinator” is. Bob Overton, Michelle Schilling (listed at the Register), and Jeffery Smythe have all sent or responded to email communications. Leslie Dismukes “chaired” and “spoke” at the public meeting.

x x x x

For all of the reasons above, I “respectfully” demand (not request), that any “Effective Date” for rule changes to North Carolina Administrative Code Chapter 12 Subchapter 9F (12 NCAC 09F) Concealed Handgun Training be “cancelled”. These proposed rule changes cannot be “made effective” – ever. I, also, respectfully request “Legislative Review.”

/s/ Dean L. Wiley

Notes left over from letter to an "in security industry" person that the above "Request" was built from.

Will not be included in the "word document" available to others.

PPSB "is in the Law" (bold added this time, and note: no, not in "that other law" that CJS keeps pointing to)

§ 14-415.12A. Firearms safety and training course exemption for qualified sworn law enforcement officers and certain other persons.

(b) A person who is licensed or registered by the North Carolina Private Protective Services Board under Article 1 of Chapter 74C of the General Statutes as an armed security guard, who also has a firearm registration permit issued by the Board in compliance with G.S. 74C-13, is deemed to have satisfied the requirement under G.S. 14-415.12(a)(4) that an applicant successfully complete an approved firearms safety and training course. (1997-274, s. 1; 2005-211, s. 2; 2010-104, s. 2; 2014-119, s. 7(b); 2015-105, s. 1; 2015-264, s. 36(a).)

https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_14/GS_14-415.12A.pdf

Only PPS[B] FTs can give the PPS 74C-13 [class] that 'qualifies' for a Permit. (bold this time)

Because 'the class' (after proper 'registration') **REQUIRES** (aka "shall issue") that a Sheriff use the class certification to "issue" a Concealed Carry Handgun Permit: we (FTs/FT-HGs) **MUST** include "the minimum of two hours worth of (current) Concealed Carry training in the 20 hour "Armed" class. See: all of the PPSB Armed books, available only at NCJA, since the inception of CCH include "basically The Red Book's 'law section'." It does not matter – in reality and law – that the "CJS" (sub-committee/commission) willfully refuses to 'read and/or acknowledge' 12A.

"...not PPSB 'jurisdiction' ..." PPSB has NO jurisdiction, it is not a "Law Enforcement Agency."

According to the June, 2023, Minutes, "Director's Report": there are 4,214 "armed" personnel "in PPS". They (we) are all "entitled" to "our government 'protectors/servants' "standing up for us" and "fighting" anyone (including – especially – other 'incompetent or not: WRONG' government 'agents/employees/representatives/licensing-boards').

Your word not mine – but I can't think of a better one, either: PPSB Jurisdiction (more):

"CJS" is a 'sub-committee (or commission, used interchangeably without 'official definition' in Law or Code; 'legally' it is a "Division of DOJ")' of the Criminal Justice Education and Training Standards Commission (CJETS) that is to be 'managed' by the "Agency" North Carolina Department of Justice.

The Secretary of the Department of Public Safety – who the PPS[B] is currently 'under' – is, by law, a "member" of CJETS. (removed – personal)

CJS violation of law as it pertains to the PPSB only (there are several other violations):

§ 150B-19.1. Requirements for agencies in the rule-making process.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

https://www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter_150b.html

Did "CJS" "coordinate" with PPSB during their "proposed rules changes" process?

I ask rhetorically, because 'we' wouldn't be here if they had.

Because 74C-13 classes qualify for "CCH Permits" FTs/FT-HGs, if the CCH changes go through, we will be required to submit pre-delivery (30 days) and Post-delivery (5-10 days) "CJS reports" in direct conflict – as well as in addition to – PPSB *-delivery reports as required by 14B NCAC 16 .0907 and .0908; as well as purchase and deliver a "Red Book" to every PPSB "Armed" student, and 'just go get NRA or USCCA certified,' and purchase those \$2 each CJS certificates.

All of the above because you 'mistakenly' (cut) are allowed to think that "CCH and PPSB" have nothing to do with each other. (cut)

(cut)

PPSB at "a bare minimum" has an "interest" in making sure that "we" all comprehend and understand "gun laws, including CCH, in NC."

(many pages PPSB ONLY – cut)