

BOARD OF PRIVATE DETECTIVES AND GUARDS

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Thursday, May 31, 2012

Time: 8:30 a.m.

Place: Exam Room
King Kalakaua Building
335 Merchant Street, 3rd Floor
Honolulu, HI 96813

Present: Randall W. Mack, III, Industry Member, Chair
Douglas Inouye, Public Member, Vice Chair
Darryl Perry, Chief of Police, County of Kauai
Gary Yabuta, Chief of Police, County of Maui
Patrick W. Souza, Public Member
Rodney J. Tam, Deputy Attorney General
Charlene L.K. Tamanaha, Executive Officer
Christine Hironaka, Secretary

Excused: None.

Guests: None.

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor as required by §92-7, Hawaii Revised Statutes ("HRS").

Call to Order: There being a quorum present, the meeting was called to order at 9:00 a.m. by Chair Mack.

Additions to
Or Deletions
From the Agenda: It was moved by Vice Chair Inouye, seconded by Chief Yabuta and unanimously carried to add the following agenda item following approval of the minutes.

Aloha to outgoing Board Members Randall Mack and Patrick Souza

Chapter 91, HRS
Adjudicatory
Matters: None.

Approval of
the Minutes: It was moved by Vice Chair Inouye, seconded by Mr. Souza, and unanimously carried to approve the minutes and executive session minutes of the May 17, 2012 meeting as circulated.

Aloha Board

Members:

The Executive Officer, on behalf of the Board, the Professional and Vocational Licensing Division and the Department of Commerce and Consumer Affairs, thanked Randall Mack and Patrick Souza for their years of public service and commitment to the Board. She bid them a fond aloha, good health, and success in all of their future endeavors.

Legislation:

- a. Act 208 (S.B. No. 2165) and any matters relating to the implementation of Act 208.
 - i. The Board reviewed Neal S. Takase's letter from the Pearl Harbor Federal Credit Union inquiring about the impact Act 208 would have on the Branch Managers.

The Board reviewed the following definition of a "guard" in Hawaii Revised Statutes ("HRS") section 463-1 that was amended by Act 208.

"Guard" means a registered uniformed or non uniformed person responsible for the safekeeping of a client's properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping. "Guard" shall not include any active duty federal, state, or county law enforcement officers or personnel."

Based solely on the information provided, the Board determined that the duties of a Branch Manager upon receipt of "a call from the alarm company informing them that the alarm in their branch detected an intrusion, he/she is responsible to go to the branch office and assist law enforcement officials in the inspection of the branch, secure the building and/or property if necessary and to complete a police report." does not fall within the definition of a "guard" as noted above and therefore not subject to the requirements of Act 208 and HRS Chapter 463.

In accordance with HAR section 16-201-90, the above interpretation is for informational and explanatory purposes only. It is not an official opinion or decision, and thus is not binding on the Board.

- ii. The Board reviewed the email from David Heaukulani, PhD, CAPP, CPP. Mr. Heaukulani stated "The proposed curricula is comprehensive enough to cover the requirements of Act 208, and quite achievable pursuant to industry standards of curriculum development."

- iii. The Board reviewed the email from Russell Tanji, RSTA Consultant, LLC. Mr. Tanji stated "...the May 17th proposed curricula is condensed enough to comply with the requirements of Act 208. The curricula in it's current form is pursuant to industry standards of curriculum development."
- iv. The Board reviewed the email from Jeffrey B. Owens, GD 794, PD 795, and retired Major of the Honolulu Police Department. Mr. Owens stated "The proposed training appropriately covers the topics required by Act 208, is achievable, and establishes a reasonable and consistent standard for all persons engaged in and entities offering guard service."
- iv. The Board responded as follows to the questions and suggestions from Stafford Oyama, Training Manger, Professional Protective Services:
 - Q1: What does "*acting in guard capacity*" mean?
 - A1: As stated in HRS 463-1 and Hawaii Administrative Rules (HAR) §16-97-2, http://hawaii.gov/dcca/pvl/pvl/har/har_97-c.pdf.
 - Q1a: Will a night auditor at hotel be required to be certified?
 - A1a: Only if the job duties are within the definition of a guard as stated in HRS 463-1 and HAR 16-97-2.
 - Q1b: Is there a minimum % of someone performing security duties to require him to be certified?
 - A1b: No.
 - Q2: Under Continuing Education each company who will be performing their own in house training will have the option of choosing any of the topics listed?
 - A2: While this process is still under review by the Board, to standardize the training, the Board intends to establish the continuing education component that the Honolulu Community College or any other provider shall cover.

- Q2a When it says, "or may provide additional course(s) on topics applicable to private security work", does this mean each company can create their own curricula, as well?
- A2a The curricula can be reviewed by the Board or the Honolulu Community College but must be approved and ratified by the Board.
- S1: A company who will have their own inhouse trainer should be provided the option of selecting the topic that would apply to their operation.
Example: Power of Arrest, Search and Seizure would not apply to us since we do not have any post that will require such action. This would be applicable to companies who have security personnel who apprehend shoplifters. We would sub the 1.5 hrs. with another topic i.e. Continuing Education.
- R1: To meet the legislative intent of "standardized" training, the topics to be covered shall apply to all areas of security.
- S2: Under II. Access Control Safety, Fire detection & Reporting
Add Bomb threat, Hazardous chemical leak, Calling 911, Portable fire extinguisher.
Change "Hurricane" to "Tropical Cyclone"
- R2: The Board will take these suggestions under advisement.
- S3: Under V. Techniques of Observation and Reporting of incidents add HRS.
- R3: There are no Hawaii Revised Statute cites.
- S4: Continuing Education
- a. Under Liability, add Public Accommodations law.
 - b. Under Laws, Codes, Regulations and Ordinances, add Service Animal, Handicap Parking, Smoking.

- c. Under First Aid for First Responders, add Good Samaritan Law.
- d. Under Work Place Violence, add Domestic Violence (TRO), Lock-down.

R4: The Board will take these continuing education comments under advisement.

vi. The Board responded as follows to the email from William Green, Director of Safety and Security, Sheraton Maui Resort & Spa regarding the certification of guards and officers in the hotel industry:

Q1: Since there is a requirement for 4 hours of on the job training, does the State or the employer assume liability for the on the job trainer?

A1: No. The State assumes no liability.

Q2. Are the guards considered certified card holders after passing the 8 hour course and test, prior to completing the on the job segment?

A2 This is still under review by the Board.

Q3: Will the scope and content for the on the job training segment be provided in the certification plan? How is the completed on the job segment recorded with the Board?

A3: No. The Board is still working on the implementation strategies.

Q4: Will those selected by employers to be on the job trainers be given priority to attend the course first, so they are certified and approved as trainers prior to the remaining guards that need to be trained coming on line at the Hotel?

A4: Yes, to be "certified" the trainer must complete the course.

vii. The Board reviewed the email from William Wright, former working guard in California about the ban on interrogation, and the use of pepper spray and agreed that the comments will be taken under advisement when the Board looks to amend its rules.

- viii. The Board reviewed the email from Kevin Ogata, Trainer Coordinator, Pacific Regional Disaster Preparedness Center and responded as follows:
- C1 The amount of time allocated to the subjects of use of force; search and seizure; and power to arrest, appears or seems to be overly stated. There is no doubt that these subjects should be covered, but more attention to "detaining" or "holding" of a person needs to be emphasized, only because a "guard" normally does not have arrest authority, limited if any search authority, and certainly not armed with any type of weapon (thank heavens). In defense of a "guard", there should be training that will cover defending oneself, what a guard can/should not do!
- R1: It is the Board's intention that this be covered.
- C2: Review of this curricula and the implementation of the new law requiring "guard training", should have also looked at the many alternatives for the training requirements, i.e. other training companies besides HCC must be authorized; cost for the training must be reasonable for both the trainer and the trainee. A more collaborative setting must be made for all the "guard" companies out there are able to participate on an equal basis and not be intimidated by the larger security firms. In defense of the larger firms, what can they expect for the guards they already have, i.e. vetting, will they be grandfathered in (background checks, credit for training the guards already receive; etc. etc.)?
- R2: The Board will consider other course providers and has worked diligently with Honolulu Community College to keep the cost reasonable for all concerned. There is no statutory authority to "grandfather" any employees acting in a guard capacity. Effective July 1, 2013, all guards acting in a guard capacity shall meet the requirements of Act 208 and register with the Board.
- C3: Lastly, if this curricula is the base for all "guards", it certainly is very aggressive for all those private firms that provide single guards for fast shop stores (7-11, parking lots, shopping center stores, etc.).

R3: The Board feels the approved curricula dated, May 31, 2012 meets both the legislative intent of “standardized” training for all guards and the mandated training requirements of Act 208.

ix. The Board reviewed the email from Joe Bixler, National Director of government & Security Sales, Critical Information Network. Mr. Bixler submitted an eLearning Training Compliance Proposal from his company for the Board to review.

b. Review of Curriculum content from Honolulu Community College and matters relating to the implementation of Act 208.

i. Security Guard Training Curricula

Executive Session: It was moved by Vice Chair Inouye, seconded by Chief Perry, and unanimously carried to enter into executive session to consult with the Board’s attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities and to consider sensitive matters related to public safety or security in accordance with HRS 92-5(a)(4) and (6) at 9:12 a.m.

It was moved by Vice Chair Inouye, seconded by Chief Perry, and unanimously carried to reconvene to the Board’s regular order of business at 9:58 a.m.

It was moved by Chief Yabuta, seconded by Vice Chair Inouye to accept the Security Guard Training Curricula as amended to add “(e.g. bomb threats, hazardous chemical leaks)”to 2.n., remove “DRAFT” and change the date to May 31, 2012 on the document to be posted on the Boards website.

May 31, 2012

SECURITY GUARD TRAINING CURRICULA

Act 208 (SLH 2010)

INTRODUCTION

In 2010, the Legislature established new training requirements for guards in HRS chapter 463. See, Act 208 (SLH 2010).

Effective July 1, 2013, new HRS section 463-10.5(a) requires all guards, and all agents, operatives, and assistants employed by a guard agency, private business entity, or government agency who act in a guard capacity to register with the Board of Private Detectives and Guards (“**Board**”), and (among other things) meet certain training requirements prior to acting as a guard.

Under HRS section 463-10.5(b), the Board is required to approve the training instructors and establish the training or course curricula. Guards and individuals acting in a guard capacity shall successfully complete the classroom instruction specified in HRS section 463-10.5, pass a written test, and undergo four hours of on-the-job training supervised by an individual who has successfully completed all of the requirements of this section or who has otherwise been approved by the Board for on-the-job training. Guards and individuals acting in a guard capacity shall successfully complete: (a) eight hours of classroom instruction before the first day of service, and (b) four hours of classroom instruction annually thereafter.

The following are the training or course curricula for the required classroom instruction. There are eight general topics that must be covered.

1. State and federal law regarding the legal limitations on the actions of guards, including instruction in the law concerning arrest, search and seizure, and the use of force as these issues relate to guard work
 - a. Power to arrest (suggested duration: 1 hour)
 1. HAR section 16-97-16(a) and HRS chapter 803
 2. What is an arrest and how is it done (HRS section 803-6)
 3. Who has the authority to arrest (HRS section 803-3)
 4. Use of force in making an arrest (HRS section 803-7)
 5. What is an implied arrest
 6. What is a false arrest
 7. Who can conduct an interrogation (HAR section 16-97-16(c))
 8. State and federal laws regarding the legal limitations on the actions of guards
 9. Techniques, liability, and company requirements relating to the arrest of an individual
 - b. Search and seizure (suggested duration: 1 hour)
 1. What is a search
 2. Types of searches
 3. What happens to seized property
 4. Stop and frisk (HAR section 16-97-16(b))
 5. Fruits of the crime
 6. Evidence collection and chain of evidence
 - c. Use of force (suggested duration: 1 hour)
 1. HAR section 16-97-16(d) and HRS chapter 703
 2. 18 U.S.C.A. section 242, deprivation of rights under color of law
 3. Prohibition on security guard carrying weapons (HAR 16-97-17)
 4. Use of reasonable, necessary force (HRS chapter 703)
2. Access control, safety, fire detection and reporting, and emergency response (suggested duration: 1 hour)
 - a. Access control for vehicles and personnel
 - b. Warning signage/posting
 - c. Automated access control systems
 - d. Identification procedures and security identification

- e. Alarms and closed circuit television (CCTV)
 - f. Trespass warnings, and what constitutes criminal trespass under HRS sections 708-813 and 708-814
 - g. Safe work environment
 - h. Emergencies (e.g., fires, power outages, earthquakes, hurricanes, tsunamis, etc.)
 - i. Detecting fires
 - j. Types of fire alarms and extinguishers
 - k. Evacuation procedures and routes (e.g., stairs, elevators, hallways, doors, etc.)
 - l. Emergency preparedness plan
 - m. Emergency contact numbers
 - n. Emergency response (e.g. bomb threats, hazardous chemical leaks)
3. Homeland security issues and procedures (suggested duration: .5 hour)
- a. U.S. Department of Homeland Security
 - 1. Background
 - 2. Areas of responsibility
 - 3. Types of security measures
 - b. Current trends in domestic and international terrorism
 - c. Counter-terrorism strategies
 - d. How to identify threats before they happen
 - e. How to assess a particular threat level
4. When and how to notify public authorities (suggested duration: .5 hour)
- a. Who to notify during an emergency (e.g., fire, theft, attempted suicide, medical emergency, natural disaster, workplace violence, etc.)
 - b. When to notify public authorities
 - c. How to notify appropriate public authorities
5. Techniques of observation and reporting of incidents, including how to prepare an incident report (suggested duration: 1 hour)
- a. Observation techniques
 - b. Observing suspects/suspicious activity
 - c. How to write detailed reports (who, what, why, when, where, and how)
 - d. How to ask appropriate questions
6. The fundamentals of patrolling (suggested duration: .5 hour)
- a. Patrolling techniques and methods
 - b. Dealing with suspects/suspicious activity
 - c. How to ask appropriate questions
7. Professional ethics (suggested duration: 1 hour)
- a. Ethics and professionalism
 - b. Avoiding conflicts of interest
 - c. Doing the right thing to protect persons and property

8. Professional image and aloha training (suggested duration: .5 hour)

- a. How to look and act professionally in all situations
- b. How to take pride in your work
- c. The importance of a good first impression
- d. How to show the “aloha spirit” (HRS section 5-7.5)

ii. Security Guard Training Minimum Qualifications to be an Approved Instructor

It was moved by Mr. Souza, seconded by Vice Chair Inouye, and unanimously carried to approve the minimum qualifications for Security Guard Training Instructors as follows:

1. Currently licensed Principal Guard; or
2. Currently certified as a:
 - Certified Protection Professional (CPP – American Society for Industrial Security) or
 - Certified Security Consultant (CSC – International Association of Professional Security Consultants); or
3. Four years experience:
 - As a guard plus two years experience as a supervisor, trainer, instructor or manager of guard employees; or
 - As a guard plus an Associates Degree in Police Science or Criminal Justice; or
 - As a police officer with a police department of a state or political subdivision thereof, or
 - As a law enforcement officer or federal agent with police powers of a state or political subdivision thereof.

iii. On-the-Job Trainer Qualifications

It was moved by Mr. Souza, seconded by Vice Chair Inouye, and unanimously carried to approve the minimum qualifications for the On-the-Job Trainer to be the same as that required to be a security guard training instructor.

iv. Security Guard Training Process

It was moved by Mr. Souza, seconded by Vice Chair Inouye, and unanimously carried to approve the following process to be an approved training instructor:

- Honolulu Community College will approve instructors based upon the minimum requirements aforementioned and notify the Board for ratification by the Board; or
- Instructor applicants may apply directly to the Board for approval.

It was moved by Mr. Souza, seconded by Vice Chair Inouye, and unanimously carried to approve the following process for the On-the-Job Trainer:

- Those instructors approved by the Honolulu Community College and ratified by the Board will also be approved as On-the-Job Trainers; or
- On-the-Job Trainer applicants may apply directly to the Board for approval.

It was moved by Vice Chair Inouye, seconded by Mr. Souza, and unanimously carried to approve the following process for Curricula approval:

- Honolulu Community College may review and approve Curricula of other providers as equivalent to their approved program for Board ratification.
- Curricula of other providers may be submitted directly to the Board for approval.

The Board reviewed the following process by which a guard employee may be trained pursuant to Act 208:

- Take and pass the Honolulu Community College course.
- Take and pass the Honolulu Community College course purchased by the employer and taught by an approved certified instructor.
- Take and pass other courses approved by the Board or reviewed by the Honolulu Community College as equivalent to their program, ratified by the Board and taught by an approved instructor.

Next Meeting: Wednesday, June 27, 2012
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss the meeting adjourned at
11:15 a.m.

Reviewed and approved by:

Taken and recorded by:

/s/ Charlene L.K. Tamanaha
Charlene L.K. Tamanaha
Executive Officer

/s/ Christine Hironaka
Christine Hironaka
Secretary

6/19/12

Minutes approved as is.

Minutes approved with changes; see minutes of _____.