



STATE OF WEST VIRGINIA
OFFICE OF THE SECRETARY OF STATE
CHARLESTON 25305

JAMES R. McCARTNEY
SECRETARY OF STATE

June 19, 1975

TO WHOM IT MAY CONCERN:

I hereby submit two (2) copies of Administrative Regulations to replace W. Va. Adm. Reg. 5-2, Series 2. These regulations are promulgated by me under authority granted by West Virginia Code, Chapter 30, Article 18, Section 5.

I hereby certify that the enclosed regulations are true and complete copies of the official regulations filed in the Office of the Secretary of State on June 19, 1975, to become effective Aug. 1, 1975.

Very truly yours,

James R. McCartney
James R. McCartney
Secretary of State

JRM/bja

*process papers filed
current rule verified
12-15-82 with no change
NO other records available
on this rule*

FILED IN THE OFFICE
JAMES R. McCARTNEY
SECRETARY OF STATE

THIS DATE 6/19/75

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
Secretary of State

³⁰⁻¹⁸
Chapter ~~5-2~~
Series II
(1975)

FILED IN THE OFFICE
JAMES R. McCARTNEY
SECRETARY OF STATE

THIS DATE 6/19/75

Subject: Regulations pertaining to Private
Detectives and Investigators

Section 1. General

1.01 Scope - These regulations establish general rules and requirements for the licensing of private detectives and investigators and of watch, guard or patrol agencies, and for the suspension and/or revocation thereof.

1.02 Authority - These regulations are issued under authority of West Virginia Code, Chapter ³⁰~~5~~, Article ¹⁸~~2~~.

1.03 Effective Date - These regulations were promulgated on June 19, 1975, and became effective Aug. 1, 1975.

1.04 Filing Date - These regulations were filed in the office of the Secretary of State on June 19, 1975.

Section 2. Definitions

2.01 "Private detective or investigator" shall mean and include the business of private detective or investigator and shall also mean and include, separately or collectively, the making for fee, hire, or reward or for any consideration whatsoever, of any investigation,

or investigations for the purpose of obtaining, furnishing or supplying information with reference to any of the following matters, notwithstanding the fact that other functions and services may also be performed for fee, hire or reward, to-wit:

(a) crime or wrongs done or threatened against the government of the United States of America;

(b) violations of the laws of the state of West Virginia or of any other state or territory;

(c) the identity, activities, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation or character of any person, group of persons, association, organization, society, other groups of persons, firm or corporation;

(d) the credibility of witnesses or other persons;

(e) the whereabouts of missing persons;

(f) the location or recovery of lost or stolen property;

(g) the causes and origin of, or responsibility for fires, or libels, or losses, or accidents, or damage or injuries to real or personal property;

(h) the affiliation, connection or relation of any person, firm or corporation with any union, organization, society or association, or with any official, member or representative thereof; or

(i) with reference to any person or persons seeking employment in the place of any person or persons who have quit work by reason of any strike; or

(j) with reference to the conduct, honesty, efficiency, loyalty or activities of employees, agents, contractors and sub-contractors; or

(k) the securing of evidence to be used before any authorized investigating committee, board of award, board of arbitration, or in the trial of civil or criminal cases.

2.02 "Private detective or investigator" shall not include:

(a) any person while engaged in the business of adjuster for an insurance company or companies;

(b) any person, firm, company, partnership, corporation, or any bureau or agency, whose business is the furnishing of information as to the business and financial standing, and credit responsibility of persons, firms or corporations, or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds or commercial credit or of claimants under insurance policies;

(c) persons employed exclusively and regularly by only one employer in connection with the affairs of such employer only;

(d) an officer or employee of the United States, or any law enforcement officer of this State or any political subdivision thereof, while such officer or employee is engaged in the performance of his official duties or while working for a private employer in his off-duty hours;

(e) attorneys or counselors at law or any employee or representative of such attorney or counselor at law;

(f) any corporation duly authorized by this State to operate a central burglar or fire alarm protection business;

(g) any charitable or philanthropic society or association duly incorporated under the laws of the State and which is organized and maintained for the public good and not for private profit;

(h) any person, corporation or agency whose business is the furnishing of information to an employer concerning the business activities of his employees while on the premises of such employer.

2.03 "Watch, guard or patrol agency" shall mean and include the business of watch, guard or patrol agency and shall also mean and include, separately or collectively, the furnishing, for hire or reward, of watchmen or guards or private patrolmen or other persons to protect persons or property or to prevent theft, unlawful taking, misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes or other valuable documents, papers, and articles of value, or to procure the return thereof or the performing of the service of such guard or other person for any of said purposes.

2.04 "Watch, guard or patrol agency" shall not include persons employed exclusively and regularly by only one employer in connection with the affairs of such employer only, or to any person or persons as are otherwise excluded from the requirements of this Article by any section thereof.

Section 3. License - qualifications; restrictions; dates effective

3.01 Any person, firm, company, partnership or corporation intending to conduct the business of private detective or investigator or the business of watch, guard or patrol agency as defined herein shall, for each such bureau or agency and for each and every sub-agency, office and branch office to be owned, conducted, managed or maintained by such person, firm, company, partnership or corporation for the conduct of such business, file in the office of the secretary of state a written application on forms provided by the secretary of state containing such information and documentation, including fingerprints, as are required by this section, and by any other rule and regulation which the secretary of state may promulgate.

3.02 An applicant for a license hereunder shall pay to the secretary of state a license fee of fifty dollars, if the applicant be an individual, or one hundred dollars, if the applicant be a firm, partnership or corporation, or five hundred dollars, if a nonresident of West Virginia or a foreign corporation. Such applicant shall file in the office of the secretary of state a corporate surety bond in the sum of two thousand five hundred dollars conditioned for the faithful and honest conduct of such business by such applicant, which surety bond must be written by a company recognized and approved by the insurance commissioner of the state and approved by the attorney general of the state with respect to its form, manner of execution and sufficiency.

3.03 If the applicant is a person, the application shall be signed and verified by such person, and if the applicant is a firm or partnership, the application shall be signed and verified by each individual composing or intending to compose such firm or partnership. The application shall state the full name, age, residence, present and previous occupations, and educational and military service background of each person or individual so signing the same, that he is a citizen of the United States and shall also specify the name of the city, town or village, stating the street and number, if the premises have a street and number, and otherwise such apt description as will reasonably indicate the location thereof, where is to be located the principal place of business and the bureau, agency, sub-agency, office or branch office for which the license is desired, and shall state whether the applicant if he be a person, has, or, in the case of a firm or partnership, the members or partners, or any of them, have ever been arrested for or convicted of any crime or wrongs done or threatened against the government of the United States or offenses against the laws of any state or any violation of the laws of the state of West Virginia, and such further facts as may be required by the secretary of state to show the good character, competency and integrity of each person or individual so signing such application. If any such person shall have been arrested for or convicted of any such offense, he shall state the details of each such arrest or conviction, setting forth the date and place of each, together with the name of the court and the disposition of each such writ or conviction. Each person or

individual signing such application shall, together with such application, submit to the secretary of state his photograph, taken within one year prior thereto in passport size, and also five sets of fingerprints of his two hands recorded in such manner as may be specified by the superintendent of the department of public safety, and such fingerprints shall be compared with fingerprints filed with the bureau of criminal investigation, records and statistics of the state department of public safety, and with the appropriate files in any other state in which the applicant has lived within the past five years, with any files which may exist in the city in which the applicant will operate his, her, their or its business and with the files of the Federal Bureau of Investigation. The secretary of state shall take such other steps as may be necessary to investigate the good character, competency, and integrity of each applicant as empowered by section four of these regulations. Every such applicant for a license as private investigator shall establish to the satisfaction of the secretary of state, if he be a person, or, in the case of a firm, partnership or corporation, at least one member of such firm, partnership or corporation, has been regularly employed as a private detective or investigator as defined in section 2.01 of these regulations, or shall have been a member of a United States government investigative service, a sheriff or member of a city or state police department for a period of not less than three years, or shall have had at least one year's training in investigative work at an accredited college or university, such college or university being one accredited by the official accrediting agency of

the state in which the institution is located and by one of the six regional accrediting agencies recognized by the National Commission on Accrediting, to-wit: North Central, Middle States, Southern, New England, Northwest and Western for awarding degrees at a stipulated level, to-wit: bachelor's degree, master's degree, six-year program and/or doctor's degree or through an approved extension or correspondence institution, such extension or correspondence institution being one which meets the requirements set forth for an accredited college or university in this subsection, or shall have had at least one year's supervised training in investigative work with a licensed private detective agency.

3.04 If the applicant is a corporation, the application shall be signed and verified by the president, secretary, treasurer and all other officers and directors of such corporation within the state of West Virginia, and shall specify the name of the corporation, the date and place of its incorporation, the location of its principal place of business, and the name of the city, town or village, stating the street and number, if the premises have a street and number, and otherwise such apt description as will reasonably indicate the location thereof, where is to be located the bureau, agency, sub-agency, office or branch office for which the license is desired. Such application shall also include the name(s) of the individual(s) whose qualifications are presented to meet the experience/educational requirements of section 3.03 of these regulations. Each and every requirement as to character of section 3.03 of these regulations as to a person or individual

member of a firm or partnership shall apply to the president, secretary, treasurer and all other officers, directors and employees of such corporation within the state of West Virginia and each such officer, director and employee, his successor and successors shall prior to entering upon the discharge of his duties subscribe a like statement, approved in like manner, as is by section 3.01 of these regulations prescribed in the case of a person or individual member of a firm or partnership.

3.05 The secretary of state may, at his discretion, issue to any person(s) named on a firm, partnership or corporation application or renewal application whose qualifications are presented to meet the experience/educational requirements of section 3.03 of these regulations an individual license in the name of such person, upon receipt of an application as required for an individual by section 3.01 of these regulations and upon receipt of the license fee and filing of the surety bond as required by section 3.02 of these regulations.

3.06 No such license as private detective or investigator or watch, guard or patrol agency shall be issued to a person under the age of eighteen years.

3.07 Each person who signs and verifies an application pursuant to this section shall affirm that the statements therein are true under the penalties of false swearing.

3.08 A license approved pursuant to the provisions of this Article shall be issued on the first day of the month immediately following the date of approval of such application. A license certificate

renewed upon approval of an application therefore by any person, firm, company, partnership or corporation duly licensed under the provisions of this Article shall become effective on the date of expiration of the previous license certificate, except that if that date shall be other than the first day of the month such renewal certificate shall become effective on the first day of the month in which application for such certificate is approved. If such application for renewal shall be made after the date of expiration of the previous license certificate such renewed certificate, when approved, shall become effective on the first day of the month following such approval. Each license issued hereunder shall be for a period of one year and shall be revocable at all times for cause shown.

3.09 There shall be maintained in the office of the secretary of state a list of all persons, firms, companies, partnerships and corporations holding a license issued pursuant to the provisions of this Article which list shall include the effective date and date of expiration of such license and shall be made current on the first business day of every month.

Section 4. Enforcement - investigations

4.01 The secretary of state shall, upon receipt of an application for license or a renewal thereof, request an investigation to be made by the department of public safety of the individual who signs and verifies such application, if the applicant is a person, or, if the

applicant is a firm or partnership, of each individual composing such firm or partnership, or, if the applicant is a corporation, of the president, secretary, treasurer and all other officers and directors working for such corporation within the state of West Virginia for the purpose of determining the good character, competency and integrity of such applicant.

4.02 The secretary of state shall, upon complaint of any person, or on his own initiative, investigate any violation of the provisions of this article, or the business, business practices and business methods of any person, firm, company, partnership or corporation applying for or holding a license as a private detective or investigator, or watch, guard or patrol agency, if in the opinion of the secretary of state such investigation is warranted.

Section 5. Issuance - disability and denial

5.01 The secretary of state may deny a license to any applicant who, if an individual, has, or if the applicant is a firm, company, partnership or corporation, if its manager or any of its officers, directors, partners or employees, have:

- (a) committed any act constituting dishonesty or fraud;
- (b) committed any act, which, if committed by a licensee, would be a ground for the suspension or revocation of a license under the provisions of section 9.01 of these regulations;

(c) committed any act resulting in conviction of a felony, or of any misdemeanor or offense against the laws of the United States, the state of West Virginia or any other state or territory;

(d) been refused a license under this Article or had a license revoked;

(e) been an officer, director, partner or manager of any person who has been refused a license under this Article or whose license has been revoked;

(f) while unlicensed, committed or aided and abetted the commission of any act for which a license is required by this Article; or

(g) knowingly made any false statement in his application;

(h) a less than good moral character, intemperate habits, or a less than good reputation for truth, honesty, integrity, and competency.

Section 6. Posting and surrender of license certificate; transfer

6.01 Immediately upon the receipt of the license certificate issued by the secretary of state pursuant to this Article, the licensee named therein shall cause such license certificate to be posted up and at all times displayed in a conspicuous place in the bureau, agency, sub-agency, office or branch office for which it is issued, so that all persons visiting such place may readily see the same. Such license certificate shall at all reasonable times be subject to inspection by the secretary of state or an authorized representative or representatives of the secretary of state. It shall be unlawful for

any person, company, firm, partnership or corporation holding such license certificate to post such certificate or to permit such certificate to be posted upon premises other than those described therein or to which it has been transferred pursuant to the provisions of this section, or knowingly to alter, deface or destroy any such license certificate. Every license certificate shall be surrendered to the secretary of state by certified mail within seventy-two hours after its term shall have expired or after notice in writing to the holder that such license has been revoked. Failure to comply with any of the provisions of this section shall be sufficient cause for the revocation of a license.

6.02 A license issued under this Article is not transferable or assignable from one individual or firm, company, partnership or corporation to any other individual or firm, company, partnership or corporation.

6.03 If the holder of an unexpired license certificate issued pursuant to this Article shall remove the bureau, agency, sub-agency, office or branch office to a place other than that described in the license application, he shall, within twenty-four hours immediately following such removal, give written notice by certified mail of such removal to the secretary of state, which notice shall describe the premises to which such removal is made and the date on which it was made.

6.04 A license issued pursuant to this Article may not be surrendered nor may any licensee resign as such licensee without the written approval of the secretary of state or any deputy authorized to act for him.

Section 7. Renewal of license - form specified; denial

7.01 A license granted under the provisions of this Article may be renewed by the secretary of state upon application therefore by the holder and payment of the fee and filing of the surety bond as provided in section three of this Article. Such application shall be signed and verified by the individual, if the applicant is a person, or, if the applicant is a firm or partnership, by each individual composing such firm or partnership, or, if the applicant is a corporation, by the president, secretary, treasurer and all other officers and directors working for such corporation within the state of West Virginia. The application shall state the full name of each person or individual so signing the same, and, if for a corporation, the name of such corporation and the name(s) of the individual(s) whose qualifications are presented to meet the experience/educational requirements of section 3.03 of these regulations, and shall specify the name of the city, town or village, stating the street and number, if the premises have a street and number, and otherwise such apt description as will reasonably indicate the location thereof, where is located the bureau, agency, sub-agency, office or branch office for which the renewal is desired, and shall state whether the applicant, if an individual, has, or if the applicant is a firm,

company, partnership or corporation, whether its manager or any of its officers, directors, partners or employees have, within the last five (5) years immediately preceding the date of such renewal application, been arrested for or convicted of any offense against the laws of the state of West Virginia or of any state.

7.02 Any licensee failing to file said application by the date of expiration of his, her, its or their license shall be notified by the secretary of state that, until such application for renewal be filed, any action taken in the capacity of private detective or investigator or watch, guard or patrol agency shall be in violation of West Virginia Code, Chapter 30, Article 18, an unlawful action, and shall be a ground for failure to renew said license, and such notice shall also be forwarded to the prosecuting attorney of the county in which the bureau, agency, sub-agency, office or branch office of said licensee is located.

7.03 No person, firm, company, partnership or corporation shall carry on any business subject to this Article during any period which may exist between the date of expiration of his, her, its or their license, and the renewal thereof.

Section 8. License certificates - cards

8.01 Upon the issuing of a license as hereinbefore provided the secretary of state shall issue to each individual, if the licensee be a person, a pocket card of such size and design as the secretary of state may prescribe, which card shall contain the name and business

address of the licensee, the date of expiration of such license and the impression of the seal of the secretary of state which pocket card shall be evidence of due authorization pursuant to the terms of this Article. If the licensee be a firm, partnership or corporation, the secretary of state shall issue to the person(s) named on the application or renewal application for such license whose qualifications are presented to meet the experience/educational requirements of section 3.03 of these regulations a pocket card of such size and design as the secretary of state may prescribe, which card shall contain the name and business address of the firm, partnership or corporation, the date of expiration of such license and the impression of the seal of the secretary of state which pocket card shall be evidence of due authorization pursuant to the terms of this Article. Persons to whom such license certificates or pocket cards shall have been issued shall not lend, enable, let or allow any other person to have, hold, use or display such certificate or pocket card.

8.02 Such license certificate or pocket card shall be in the possession of each person, partner or officer of a corporation to whom issued while such person, partner or officer is engaged in business for which he is licensed under this Article; parting with such a license certificate or pocket card or displaying the same without authority, or displaying any license certificate or pocket card purporting to authorize the holder thereof to act as a private-detective

or investigator or watch, guard, or patrol agency, unless the same shall have been duly issued pursuant to the provisions of this Article, shall be a ground for the suspension or revocation of, or failure to renew said license.

8.03 Each such certificate or pocket card shall be returned to the secretary of state by certified mail within seventy-two hours after its term shall have expired, or after the holder thereof has received notice in writing of the revocation of such license.

Section 9. Suspension or revocation - authority of the secretary of state; notice and hearing

9.01 The secretary of state may, after hearing as provided for hereinunder, suspend or permanently revoke a license issued under this Article if he determines that the licensee or any officer, director, partner, manager or employee thereof has:

(a) made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license;

(b) violated any provision of this Article;

(c) violated any regulation promulgated by the secretary of state pursuant to the authority contained in this Article;

(d) been convicted of a felony or any crime involving moral turpitude or any other crime involving the illegal use, carrying, or possession of a dangerous weapon;

(e) committed any act in the course of the licensee's business constituting dishonesty or fraud;

(f) impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer or an employee of the United States or of this state or any political subdivision thereof;

(g) engaged in the business of private detective or investigator as defined in section two of these regulations when not lawfully in possession of a valid license issued under the provisions of this Article;

(h) committed an unlawful breaking or entering, assault, battery, or kidnapping;

(i) knowingly violated or advised, encouraged or assisted the violation of any court order or injunction in the course of business as a licensee;

(j) committed any other act which is a ground for denial of an application for license under this Article; or

(k) undertaken to give legal advice or counsel or to in anywise represent that he is representing any attorney or is appearing or will appear in any legal proceedings or to issue, deliver, or utter any simulation of process of any nature which might lead a person or persons to believe that such simulation, written, printed or typed, may be a summons, warrant, writ or court process or any pleading in any court proceeding.

9.02 The secretary of state shall, before revoking or suspending any license, and at least fifteen days prior to the date set for hearing, notify in writing the holder of such license of any charge made and shall afford said licensee an opportunity to be heard in person or by counsel in reference thereto. Such hearing shall be conducted in accordance with the provisions set forth in West Virginia Code, Chapter 29A, Article 5.

9.03 The hearing on such charges shall be at such time and place as the secretary of state shall prescribe and shall be conducted by such officer or person as the secretary of state may designate.

9.04 In the event that the secretary of state shall revoke or suspend any such license his determination shall be in writing and officially signed. The original of such determination, when so signed, shall be filed in the office of the secretary of state and copies thereof shall be mailed to the licensee, and to any complainant and to the prosecuting attorney of the county in which the bureau, agency, sub-agency, office or branch office of said licensee is located.

Section 10. Employees

10.01 A licensee may employ to assist him in his work of private detective or investigator as defined in section 2.01 of these regulations and in the conduct of such business as many persons as he

may deem necessary, but no person shall be employed who has not been issued a license as private detective or investigator under the provisions of this Article, except that any person presently employed in a supervised capacity by a licensee duly licensed shall be exempt from the requirements of this sub-section for a period of one (1) year from the effective date of these regulations.

10.02 A licensee may employ to assist him in his work as a watch, guard or patrol agency as defined in section 2.03 of these regulations and in the conduct of such business as many persons as he may deem necessary, but no person shall be employed who has been convicted of a felony or any of the offenses specified in section 5.01 of these regulations, and who was not, subsequent to such conviction, received executive pardon therefor, or who has not received a certificate of good conduct granted by the board of parole, or any person previously licensed under the provisions of this Article whose license was revoked or whose application for such license was denied by the secretary of state because of any such convictions. The licensee shall provide the secretary of state with such information as to the good character, competency and integrity of each employee, upon commencement of his employment, as the secretary may require, and shall include the employee's full name, age, residence address, whether the employee be a citizen of the United States, and a statement setting forth that

the employee has not been convicted of a felony or any of the offenses specified in section 5.01 of these regulations, except as hereinabove provided in this section.

10.03 Should the holder of an unexpired license certificate falsely state or represent that a person is or has been in his employ, such false statement or misrepresentation shall be sufficient cause for the revocation of such license.

Section 11. Employees - divulgence of information; false reports

11.01 Any person who is or has been an employee of a holder of a license shall not divulge to anyone other than this employer, or as his employer shall direct, except as he may be required by law, any information acquired by him during such employment in respect of any of the work to which he shall have been assigned by such employer.

11.02 The employer of any employee believed to have violated this section shall without any liability whatsoever upon said employer supply the prosecuting attorney of the county in which such employee is employed with all the known facts and circumstances in connection with the said employee's transaction or performance or action believed to be in violation of this Article. Failure of any holder of a license to do so shall be sufficient ground for revocation of such license.

Section 12. Restrictions on licensee

12.01 The holder of a license issued under this Article, and while performing services as a private detective or investigator as defined in section 2.01 of these regulations, shall not distribute, possess, use or display any metallic badge or shield or any other metallic indicia of a license status pursuant to this Article. However, any person who is a licensee hereunder or an officer or authorized employee of any person, firm, partnership or corporation licensed hereunder, while performing services as a watch, guard or patrol agency as defined in section 2.03 of these regulations, may wear on his outer clothing a metallic or woven insignia whose design shall be approved in writing by the secretary of state.

12.02 Such licensee shall not use, display, cause to be printed or distributed in any fraudulent, false or misleading manner, cards, letter-heads, circulars, brochures or any other advertising material or advertisement in which any name or indicia of the license status of the licensee is set forth in any manner other than the name under which the licensee is duly licensed.

12.03 Such licensee shall not publish or cause to be published any advertisement, letter-head, circular, statement or phrase of any sort which suggests that the licensee is an official police or investigative agency or any other agency instrumentality of the state of West Virginia or any of its political subdivisions.

12.04 Such licensee shall not make any statement which would reasonably cause another person to believe that the licensee is a police officer or official investigator of the state of West Virginia or any of its political subdivisions.

12.05 Any violation of the provisions of this section by the holder of a license shall be sufficient ground for revocation of such license.

Section 13. Application of article

13.01 The commission of a single act prohibited by this Article shall constitute a violation thereof, and shall be punishable as a misdemeanor under the provisions of West Virginia Code, Chapter 30, Article 18, Section 8.