Chapter 703

1979 REPLACEMENT PART

Polygraph Examiners

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GENERAL PROVISIONS

703.010 Definitions. As used in this section and ORS 703.030 to 703.320, unless the context requires otherwise:

(1) "Board" means the Board on Police Standards and Training.

(2) "Executive director" means the executive director of the board.

(3) "Internship" means the study by a trainee of polygraph examinations and of the administration of polygraph examinations under the personal supervision and control of a polygraph examiner in accordance with the course of study prescribed by the board at the commencement of such study.

(4) "Person" means any individual, firm, association, partnership or corporation.

(5) "Polygraph examiner" means a person who purports to be able to detect deception or verify the truth of statements through the use of instrumentation or of a mechanical device and licensed as such under this section and ORS 703.030 to 703.320.

(6) "Trainee" means a person licensed under this section and ORS 703.030 to 703.320 to engage in an internship. [1975 c.608 §3]

GENERALLY

703.020 Short title. ORS 703.010 and 703.030 to 703.320 shall be known and may be cited as the Polygraph Examiners Act. [1975 c.608 §1]

703.030 Purpose; construction. (1) It is the purpose of ORS 703.010 and 703.030 to 703.320 to regulate all persons who purport to be able to deduct deception or to verify the truth of statements through the use of instrumentation or mechanical devices, including but not limited to lie detectors, polygraphs and deceptographs.

(2) ORS 703.010 and 703.030 to 703.320 shall be liberally construed to regulate all persons described in subsection (1) of this section. No person who purports to be able to detect deception or to verify the truth of statements shall be exempted from the provisions of ORS 703.010 and 703.030 to 703.320 because of the terminology that he may use to refer to himself, to his instruments or mechanical devices or to describe the nature of his services. [1975 c.608 §2]

LICENSING

703.050 Polygraph examiner license requirement. No person, including persons employed by a state agency or public body in this state, may engage in conducting polygraph examinations, refer to himself as a polygraph examiner or offer or advertise his services as a polygraph examiner unless he is licensed under ORS 703.010 and 703.030 to 703.320 as a polygraph examiner. [1975 c.608 §4]

703.060 License classes. There shall be two types of polygraph examiner licenses:

(1) The trainee license permits the holder to engage in an internship.

(2) The general license permits the holder to administer specific issue examinations. [1975 c.608 §6]

703.070 License applications; form; content; fees nonrefundable. (1) Applications for initial renewal or replacement licenses as polygraph examiners or trainees under ORS 703.010 and 703.030 to 703.320 shall be submitted in writing and under oath to the board, accompanied by the proper fee therefor specified in ORS 703.110.

(2) Any fee submitted to the board may not be refunded. Each such application shall be in such form and require such information as the board prescribes. [1975 c.608 §13]

703.080 License qualifications. (1) To become a trainee an applicant shall satisfy subsections (1) to (4) of ORS 703.090 and have graduated from a polygraph examiners course approved by the board.

(2) To receive a general license an applicant shall satisfy subsections (1) to (7) of ORS 703.090. The trainee shall receive a general license upon satisfaction of subsections (5) to (7) of ORS 703.090. The board shall require such proof as is necessary to establish satisfaction of the additional requirements. [1975 c.608 §14]

703.090 General polygraph examiner license qualifications; statement on refusal to issue license. (1) Any applicant for a license as a general polygraph examiner must:

(a) Be at least 18 years of age;

(b) Be a citizen of the United States;

(c) Not have demonstrated, in the preceding 10 years, a course of behavior that indicates a high degree of probability that the applicant will be unlikely to perform the

duties of a polygraph examiner in a manner that would serve the interests of the public;

(d) If previously convicted for a criminal offense, provide information, as required by the board, relating to the circumstances of the conviction. ORS 670.280 is applicable when the board considers information provided under this paragraph;

(e) Have received a baccalaureate degree from a college or university that is accredited by the American Association of Collegiate Registrars and Admissions Officers; or, in lieu thereof, be a graduate of an accredited high school and have at least five years of active investigative experience before the date of his application;

(f) Have graduated from a polygraph examiners course approved by the board and have satisfactorily completed at least 200 examinations, or have worked as a polygraph examiner for a period of five years for a governmental agency within the State of Oregon and have completed 200 examinations; and

(g) Have successfully completed an examination conducted by the board to determine his competency to act as a polygraph examiner.

(2) When the board refuses to issue a license based upon an applicant's failure to meet the requirements of paragraph (c) of subsection (1) of this section, the board shall prepare a concise, specific written statement of the facts supporting the board's conclusion that there is a high degree of probability that the applicant will be unlikely to perform required duties in a manner that would serve the interests of the public. A copy of the statement shall be given to the applicant. [1975 c.608 §15; 1979 c.410 §9]

703.100 Term and renewal of licenses. (1) Each polygraph examiner's license issued by the board under ORS 703.010 and 703.030 to 703.320 shall be issued for a period of one year. The board may renew the license of a polygraph examiner, unless such license has been suspended or revoked, upon compliance by the person with such conditions as the board may prescribe.

(2) A person whose polygraph examiner's license has expired may obtain a renewal license without examination upon application therefor within two years after the date of the expiration of such license and payment of the required fee for such renewal.

(3) A person whose polygraph examiner's license has expired while he was employed by any federal agency or while he was on active duty as a member of the Armed Forces of the United States or on active duty as a member of the National Guard of this state may obtain a renewal license, without examination, upon application therefor within two years after the date of his termination of such employment or active duty and payment of the required fee for such renewal. [1975 c.608 §20]

703.110 Fees. The following fees shall be charged by the board in carrying out ORS 703.010 and 703.030 to 703.320:

(1) The fee of $50 for the issuance of each original license as a general polygraph examiner.

(2) The fee of $50 for the annual renewal of a license as a general polygraph examiner.

(3) The fee of $50 for examination by the board to determine the competency of an applicant as a polygraph examiner.

(4) The fee of $35 for the issuance of a trainee license.

(5) The fee of $35 for the extension or renewal of a trainee license.

(6) A fee, established by rule of the board, for issuance by the board of a duplicate polygraph examiner or trainee license upon satisfactory proof that the original license has been lost or stolen. The fee established under this subsection shall be the same, to the nearest dollar, as the actual cost of issuing a duplicate license. [1975 c.608 §23; 1979 c.410 §10]

703.120 Nonresident licensees; service of process. (1) The board may license a person who is not a resident of this state as a polygraph examiner as otherwise provided under ORS 703.010 and 703.030 to 703.320. However, any such person must include with his application for a license or renewal thereof an irrevocable written consent permitting the executive director to act as his agent for the service of all legal process in this state.

(2) In any action in a court of competent jurisdiction in this state, service of process may be made upon a polygraph examiner who does not reside in this state by mailing two copies of the process to the executive director. The executive director shall retain one copy of the process in the records and immediately send, by certified or registered mail, the other copy to the polygraph examiner at his most

current address as indicated by the records of the executive director. [1975 c.608 §17]

703.130 Reciprocity for persons licensed by federal or state governments; qualifications. The board may grant a license as a polygraph examiner in this state to a person who is licensed as a polygraph examiner by another state or territory of the United States, without examination, upon application by such person in the manner prescribed by the board and upon payment to the board of a fee of $50, payable to the board, if the board finds that such person:

(1) Is at least 18 years of age;

(2) Is a citizen of the United States;

(3) Was licensed pursuant to the requirements of such other state or territory that, at the date of the issuance of such license by such other state or territory, were substantially equivalent to the requirements of ORS 703.010 and 703.030 to 703.320 for the licensing and regulation of polygraph examiners in this state;

(4) Is licensed by another state or territory that grants reciprocity to polygraph examiners licensed in this state; and

(5) If a nonresident of this state, has complied with the requirements of ORS 703.120. [1975 c.608 §19; 1979 c.410 §11]

703.140 Display of license; notifying executive director of place of business changes. (1) A polygraph examiner shall display prominently his license at his place of business or employment and a trainee shall display prominently his license at the place of his internship.

(2) A polygraph examiner shall notify the executive director in writing of any change in his principal place of business within 30 days after the date of such change. Upon discovery by the executive director of failure by a licensee to comply with this section, the executive director shall suspend immediately such license. [1975 c.608 §24]

ADMINISTRATION

703.200 Issuance of licenses by board; examination and internship requirements. (1) The board may issue licenses for polygraph examiners and trainees in accordance with ORS 703.010 and 703.030 to 703.320.

(2) The board shall prescribe the manner and contents of any examination conducted by it under ORS 703.010 and 703.030 to 703.320.

(3) The board may prescribe the requirements for internship of any person who is licensed as a trainee under ORS 703.010 and 703.030 to 703.320. [1975 c 608 §16]

703.210 Suspension, revocation or issuance refusal; conditions. The board may refuse to issue, or may revoke or suspend the license of any person as a polygraph examiner or trainee, if it finds that the person:

(1) Failed to inform an individual being examined as to the nature of the examination or failed to advise the individual or his representative of the results of the examination;

(2) Failed to inform an individual being examined that his participation in the examination is voluntary;

(3) Made a material misstatement in his application for an original or renewal license under ORS 703.010 and 703.030 to 703.320;

(4) Wilfully disregarded or violated any provision of ORS 703.010 and 703.030 to 703.320 or any rule adopted pursuant thereto, including but not limited to the wilful making of a false report of a polygraph examination;

(5) Made any wilful misrepresentation or employed any false or misleading advertising to obtain business or the services of a trainee;

(6) Has demonstrated any inability or incompetency to carry out the duties of a polygraph examiner;

(7) Has permitted a license granted to him under ORS 703.010 and 703.030 to 703.320 or any rule adopted pursuant thereto to be used by another person;

(8) Has wilfully aided or abetted any violation of ORS 703.010 and 703.030 to 703.320 or any rule adopted pursuant thereto; or

(9) Has failed, within a reasonable time, to provide any information requested by the executive director after the receipt by the board of a complaint alleging that such person has violated a provision of ORS 703.010 and 703.030 to 703.320 or any rule adopted pursuant thereto. [1975 c.608 §21]

703.220 Surrender of suspended or revoked licenses; notice to licensee; restoration of license. Upon receipt of written notification of the suspension or revocation by the board of his license, a polygraph examiner or trainee shall surrender immediately his license to the executive director. The board

may restore a suspended or revoked license to the prior holder thereof at such time and under such conditions as the board deems appropriate. [1975 c.608 §22]

703.230 Procedures and rules. (1) The board shall conduct all proceedings under ORS 703.010 and 703.030 to 703.320 in accordance with ORS 183.310 to 183.500. Judicial review of an action of the board shall be provided in ORS 183.480, 183.485, 183.490 and 183.500.

(2) The board shall adopt, in accordance with ORS 183.310 to 183.500, rules for the administration and enforcement of ORS 703.010 and 703.030 to 703.320. [1975 c.608 §§11, 12]

703.240 Disposition of fees. All fees, moneys or other revenues received or collected by the board under ORS 703.010 and 703.030 to 703.320 shall be deposited in the Police Standards and Training Account. [1975 c.608 §27]

MISCELLANEOUS

703.300 Certain legal actions by unlicensed polygraph operators prohibited. No person may bring or maintain an action in any court in this state for the recovery of compensation for services performed by him as a polygraph examiner or upon a contract for any such services unless such person was licensed under ORS 703.010 and 703.030 to 703.320 as a polygraph examiner at the time of the making of such contract or at the time of the performance of such services as a polygraph examiner. [1975 c.608 §5]

703.310 Polygraph equipment requirements; use of noncomplying equipment prohibited; remedy for violation. (1) All instruments or mechanical devices that are used to test or question individuals for the purpose of detecting deception or of verifying the truth of statements made by the individuals at least shall record visually, permanently and simultaneously the cardiovascular pattern, the respiratory pattern and the galvanic skin response of each such individual. The patterns of other physiological changes of any such individual also may be recorded.

(2) No person may use any instrument or mechanical device to test or question individuals for the purpose of detecting deception or verifying the truth of statements made by the individuals that does not comply with the minimum requirements therefor under subsection (1) of this section. The board may, in the name of the State of Oregon, initiate and maintain appropriate judicial proceedings, in the manner provided by law for such proceedings, to enjoin the use of any instrumentation or mechanical device that does not comply with the minimum requirements specified in subsection (1) of this section. [1975 c.608 §26]

703.320 Registration with county clerks required. Each polygraph examiner shall register with the county clerk of each county in which he maintains a business address. The county clerk shall maintain a list of all the polygraph examiners registered in his county. [1975 c.608 §25]

PENALTIES

703.990 Penalties. Violation of any provision of ORS 703.010 and 703.030 to 703.320 or of any rule adopted thereunder is a Class A misdemeanor. [1975 c.608 §28]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,

October 1, 1979.

Thomas G. Clifford

Legislative Counsel

CHAPTERS 704 and 705
[Reserved for expansion]