

Chapter 703

1989 EDITION

Polygraph Examiners; Certified Shorthand Reporters

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OCCUPATIONS AND PROFESSIONS

POLYGRAPH EXAMINERS

(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 detect 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 used to describe the person, the instruments or mechanical devices of the person, or the nature of the services of the person. [1975 c.608 §2; 1987 c.158 §149]

(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 poly-

graph examinations, refer to that person as a polygraph examiner or offer or advertise services as a polygraph examiner unless that person 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 ORS 703.090 (1)(a) to (d) and have graduated from a polygraph examiners course approved by the board.

(2) To receive a general license an applicant shall satisfy ORS 703.090 (1)(a) to (g). The trainee shall receive a general license upon satisfaction of ORS 703.090 (1)(e) to (g). The board shall require such proof as is necessary to establish satisfaction of the additional requirements. [1975 c.608 §14, 1985 c.565 §118]

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 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 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 the person was employed by any federal agency or while the person 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 the 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 the application for a license or renewal thereof an irrevocable written consent permitting the executive director to act as the agent of the person 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 the most current address of the polygraph examiner 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 the license of the polygraph examiner at the place of business or employment of the polygraph examiner and a trainee shall display prominently the license of the trainee at the place of internship of the trainee.

(2) A polygraph examiner shall notify the executive director in writing of any change in the principal place of business of the polygraph examiner 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 the representative of the individual of the results of the examination;

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

(3) Made a material misstatement in 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 the person 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 the license of a polygraph examiner or trainee, a polygraph examiner or trainee shall surrender immediately the 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 183.550. 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 183.550, 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 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 the polygraph examiner maintains a business address. The county clerk shall maintain a list of all the polygraph examiners registered in the county. [1975 c 608 §25]

CERTIFIED SHORTHAND REPORTERS

703.400 Definitions for ORS 703.400 to 703.414 and 703.850. As used in ORS 44.320 and 703.400 to 703.414 and 703.850, unless the context requires otherwise:

(1) "Advisory committee" means the Certified Shorthand Reporters Advisory Committee created in ORS 703.414.

(2) "Certified shorthand reporter" means an individual who has been certified to engage in the practice of shorthand reporting under ORS 44.320 and 703.400 to 703.414 and 703.850.

(3) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

(4) "Shorthand reporting" means the making and transcribing of a verbatim record of any court proceeding, deposition, hearing or other matter where the verbatim record is required or requested by any court, grand jury, attorney or referee to be made by means of a written system of either manual or machine shorthand procedures. [1989 c 1055 §1]

703.402 Commissioner to verify qualifications and issue certificates; rules; duties of commissioner. (1) The commissioner shall verify the qualifications of shorthand reporters to be certified and shall issue the certificate of shorthand reporter to qualified applicants.

(2) The commissioner shall adopt rules necessary to administer ORS 44.320 and 703.400 to 703.414 and 703.850 and may appoint any committees necessary to function in accordance with ORS 44.320 and 703.400 to 703.414 and 703.850.

(3) The commissioner shall:

(a) Adopt rules establishing the qualifications necessary for the issuance of a certificate of certified shorthand reporter;

(b) Determine the qualifications of persons applying for certificates under ORS 44.320 and 703.400 to 703.414 and 703.850;

(c) Adopt rules for the examination of applicants and the issuing of certificates under ORS 44.320 and 703.400 to 703.414 and 703.850;

(d) Grant certificates to qualified applicants upon compliance with ORS 44.320 and 703.400 to 703.414 and 703.850 and rules of the commissioner;

(e) Establish continuing education requirements for biennial renewal of certificates;

(f) Collect fees as set by rule by the commissioner;

(g) Require the biennial renewal of all certificates;

(h) Establish, by rule, a code of conduct and grounds for disciplinary action; and

(i) Investigate complaints regarding court reporters.

(4) Proceedings under this section shall be conducted in accordance with ORS 183.310 to 183.550.

(5) The advisory committee shall recommend:

(a) Standards establishing the qualifications necessary for the issuance of a certificate of certified shorthand reporter;

(b) Qualifications required of persons applying for certificates under ORS 44.320 and 703.400 to 703.414 and 703.850;

(c) Procedures for the examination of applicants and the issuing of certificates under ORS 44.320 and 703.400 to 703.414 and 703.850;

(d) Certificates be granted by the commissioner to qualified applicants upon compliance with ORS 44.320 and 703.400 to 703.414 and 703.850 and rules of the commissioner;

(e) Continuing education requirements for biennial renewal of certificates;

(f) A code of conduct and grounds for suspension or revocation of certificates or other disciplinary action to the commissioner;

(g) Investigation of complaints regarding court reporters at the direction of the commissioner; and

(h) Any corrective action that may be required. [1989 c.1055 §4]

703.404 Certification speed requirements. Except as provided in section 7, chapter 1055, Oregon Laws 1989, each applicant for certification as a shorthand reporter shall satisfy the following shorthand reporting speed requirements:

(1) Five minutes of literary at 180 words per minute.

(2) Five minutes of jury charge at 200 words per minute.

(3) Five minutes of two-voice testimony at 225 words per minute. [1989 c 1055 §8]

703.406 Person using term "certified shorthand reporter" must have certificate. (1) The certificate of certified shorthand reporter shall be granted to any person who meets the requirements of ORS 44.320 and 703.400 to 703.414 and 703.850 and rules of the commissioner.

(2) Any person who has received from the commissioner a certificate of "certified shorthand reporter" shall be styled and known as a "certified shorthand reporter" and may also use the abbreviation of "C.S.R."

(3) A certificate shall be renewed biennially as provided by rules of the commissioner.

(4) Certificates issued under subsection (1) of section 7, chapter 1055, Oregon Laws 1989, may be renewed biennially upon payment of the fee established under ORS 703.410, completion of established continuing education requirements and compliance with the code of conduct as established by rule.

(5) A person may not assume or use the title or designation "certified shorthand reporter" or the abbreviation "C.S.R." or any other title, designation, words, letters, ab-

bréviation, sign or device tending to indicate that the person is a certified shorthand reporter unless the person has received a certificate as a certified shorthand reporter under ORS 44.320 and 703.400 to 703.414 and 703.850 and rules of the commissioner that is not revoked, suspended or lapsed. [1989 c.1055 §§2, 3, 7(2)]

Note: Subsection (1) of section 7, chapter 1055, Oregon laws 1989, provides:

Sec. 7. ((1) Upon application within 12 months following the effective date of this Act [October 3, 1989], unless there is reasonable cause to the contrary, the commissioner shall issue a certificate of certified shorthand reporter, upon payment of the fee established under section 14 of this Act [703.410], without examination to any applicant, if the applicant has been continuously engaged in this state in the practice of shorthand reporting for two years immediately prior to the effective date of this Act and:

(a) The applicant submits to the advisory committee a notarized statement containing the signatures of three practicing attorneys attesting to the applicant's capability as a shorthand reporter;

(b) The applicant submits to the advisory committee a notarized statement containing the signature of the judge for whom the person works attesting to the applicant's capability; or

(c) The applicant holds a National Shorthand Reporters Association Certificate or Certificate of Merit or a valid certified shorthand reporter certificate or license to practice shorthand reporting issued by another state, providing the certification or licensing requirements of the other state are comparable to Oregon. [1989 c 1055 §7(1)]

703.408 Authority to revoke, suspend or refuse to issue certificate. (1) The commissioner may:

(a) Revoke, suspend or refuse to issue any certificate described in ORS 44.320 and 703.400 to 703.414 and 703.850 or rules of the commissioner.

(b) Require additional education or training.

(2) The commissioner may revoke, suspend or refuse to issue any certificate described in ORS 44.320 and 703.400 to 703.414 and 703.850 or rules of the commissioner in the case of a violation of any provision of ORS 44.320 and 703.400 to 703.414 and 703.850 or rules of the commissioner.

(3) The commissioner may require additional education or training if the commissioner finds the person engages in or has engaged in conduct that evidences a lack of knowledge or ability to apply skills of shorthand reporting. [1989 c.1055 §5]

703.410 Fees. (1) The commissioner by rule shall establish a fee schedule for fees authorized by ORS 44.320 and 703.400 to 703.414 and 703.850, as follows:

(a) Not to exceed \$100 for initial registration.

(b) Not to exceed \$50 for biennial renewal.

(c) Not to exceed \$50 for the examination.

(2) Fees are nonrefundable.

(3) Subject to the review of the Executive Department and the prior approval of the appropriate legislative review agency, the fees and charges established under this section shall not exceed the cost of administering and enforcing ORS 44.320 and 703.400 to 703.414 and 703.850, as authorized by the Legislative Assembly; as modified by the Emergency Board or future sessions of the Legislative Assembly. [1989 c.1055 §14]

703.412 Disposition of fees and fines.

(1) All fees, moneys and other revenues received or collected under ORS 44.320 and 703.400 to 703.414 and 703.850 shall be paid into the General Fund in the State Treasury and placed to the credit of the Bureau of Labor and Industries Account, and such moneys are continuously appropriated to the commissioner for the administration and enforcement of ORS 44.320 and 703.400 to 703.414 and 703.850.

(2) All penalties recovered under ORS 703.416 shall be paid into the General Fund in the State Treasury. [1989 c.1055 §6]

703.414 Advisory Committee created; membership; terms. (1) There is created a Certified Shorthand Reporters Advisory Committee consisting of seven members appointed by the commissioner as follows:

(a) Four members of the advisory committee shall be persons skilled in the practice of shorthand reporting and shall have been engaged continuously in the practice of shorthand reporting for a period of not less than five years prior to the date of appointment as a member of the advisory committee. The initial appointees shall meet the requirements for certification under section 7, chapter 1055, Oregon Laws 1989, and subsequent appointees shall be certified under ORS 44.320 and 703.400 to 703.414 and 703.850. Of the shorthand reporter members, two shall be official reporters and two shall be free-lance reporters;

(b) Two members of the advisory committee shall be members of the Oregon State Bar not in the judicial department; and

(c) One member of the advisory committee shall be a public member and not be a reporter or a member of the Oregon State Bar or related thereto. The public member is entitled to compensation and expenses as provided in ORS 292.495.

(2) The term of a member of the advisory committee shall be three years. A member is eligible for reappointment to the advisory committee. Vacancies occurring shall be filled by appointment for the unexpired term.

(3) The advisory committee shall organize by the election of one of its members as president and one as secretary.

(4) A majority of the advisory committee shall constitute a quorum for all purposes. [1989 c.1055 §§9, 11]

PENALTIES

703.850 Civil penalty for violation of ORS 703.400 to 703.414. (1) A person who violates any provision of ORS 44.320 and 703.400 to 703.414 and 703.850 or rule of the commissioner adopted under ORS 44.320 and 703.400 to 703.414 and 703.850 is subject to payment of a civil penalty to the Bureau of Labor and Industries in an amount of not more than \$1,000 for each offense.

(2) A civil penalty under this section shall be determined and assessed by the commissioner in a contested case proceeding under ORS 183.310 to 183.550.

(3) If a person against whom a civil penalty is assessed under this section does not pay the civil penalty within 60 days after the order assessing the penalty becomes final, the order shall have the same effect as a judgment of a court of record, and the commissioner may file and execute upon this order in the same manner as the judgment of a court of record in this state. [1989 C.1055 §12]

703.990 Criminal 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]