FORENSIC POLYGRAPH EXAMINERS ACT
Act 295 of 1972

AN ACT to license and regulate persons who purport to be able to detect deception, verify truthfulness, or provide a diagnostic opinion of either through the use of any device or instrumentation as lie detectors, forensic polygraphs, deceptographs, emotional stress meters or similar or related devices and instruments; to create a state board of forensic polygraph examiners with licensing and regulatory powers over all such persons and instruments; to provide for administrative proceedings and court review; to establish minimum standards and requirements for all such instrumentation or devices and to prohibit the use of instruments or devices which do not meet minimum standards and requirements; and to provide for injunctions and penalties.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

338.1701 Short title.

Sec. 1. This act shall be known and may be cited as the “forensic polygraph examiners act”.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1702 Persons not exempted from act.

Sec. 2. A person who purports to be able to detect deception, or verify truthfulness through instrumentation, or who purports to offer or have available such services, shall not be held exempt from the provisions of this act because of the terminology which he may use to refer to himself, to his instrumentation or to his services.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1703 Definitions.

Sec. 3. As used in this act:

(a) “Person” means any natural person, firm, association, partnership, or corporation.

(b) “Examiner” means any person, other than an intern, who does any of the following:

(*i*) Purports to detect deception, verify truthfulness, or provide a diagnostic opinion of these matters through instrumentation or the use of a mechanical device.

(*ii*) Represents that he or she can or does offer the service of detecting deception, verifying truthfulness, or providing a diagnostic opinion of these matters through instrumentation or the use of a mechanical device.

(*iii*) Uses instrumentation or a mechanical device to measure or record an individual's bodily responses or psychophysiological activities to enable or assist the detection of deception, the verification of truthfulness, or the reporting of a diagnostic opinion regarding these matters.

(c) “Intern” means a person who is actively engaged in an approved training program pursuant to becoming an examiner.

(d) “Examinee” means an individual who is being examined, tested, or questioned by an examiner or intern for the purpose of detecting deception or verifying truthfulness.

(e) “Board” means the state board of forensic polygraph examiners.

(f) “Public examiner” means an examiner who performs or purports to perform the service of detecting deception or verifying truthfulness exclusively in his or her official capacity as a salaried employee of some agency, county, city, or township of this state.

(g) “Private examiner” means an examiner who performs or purports to perform the service of detecting deception or verifying truthfulness in any instance or under any circumstance other than as a public examiner.

(h) “Employer” means a person who employs 1 or more persons or who accepts applications for

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employment of persons; or an agent of an employer.

History: 1972, Act 295, Eff. Mar. 30, 1973;—Am. 1982, Act 46, Eff. Mar. 30, 1983.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1704 Minimum standards for instruments or devices.

Sec. 4. A person shall not use, or attempt to use any instrument or device for the purpose of detecting deception, verifying truthfulness or assisting in the reporting of a diagnostic opinion as to either of these unless such instrument or device, as minimum standards, shall be capable of recording visually, permanently and simultaneously indications of a person's cardiovascular pattern and changes therein, and a person's respiratory pattern and changes therein. Indications of other psychophysiological changes or bodily responses in addition may also be recorded. The operation, use or attempted use of any instrument or device for the purposes described which does not meet these minimum requirements shall be subject to penalties and may be enjoined as provided in this act.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1705 State board of forensic polygraph examiners; creation; appointment, terms, and qualifications of members; vacancy.

Sec. 5. (1) The state board of forensic polygraph examiners is created within the department of state police and shall consist of 5 members appointed by the governor with the advice and consent of the senate for terms of 4 years, except the terms of office for members of the initial board shall be 2 for 2 years and 3 for 4 years. Any vacancy in an unexpired term shall be filled by appointment of the governor with the advice and consent of the senate for the unexpired term.

(2) The members of the board shall be qualified as follows:

(a) At least 2 members of the board shall be public examiners employed by separate and distinct governmental law enforcement agencies who are at the time of appointment licensed or in the case of the initial board, who fulfill the requirements for examiner licenses under the provisions of this act. Each of these 2 members shall have at least 5 consecutive years of law enforcement experience and at least 2 consecutive years of experience administering polygraph examinations prior to their appointment.

(b) At least 2 members of the board shall be private examiners employed by separate and distinct persons or firms who are at the time of appointment licensed or in the case of the initial board, who fulfill the requirements for examiner licenses under the provisions of this act. Each of these 2 members shall have at least 5 consecutive years of experience administering polygraph examinations prior to their appointment.

(c) At least 1 member shall be a person who shall represent the public at large.

(d) Each member of the board shall be a citizen of the United States, a resident of the state for at least 2 years prior to appointment and at the time of initial appointment shall fulfill the age and educational requirements then in effect for examiner licensing under this act.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

Transfer of powers: see MCL 16.732.

338.1706 State board of forensic polygraph examiners; election of officers; conducting business at public meeting; notice of meeting; additional meetings; examinations for examiner's licenses; quorum; majority vote required; expenses; annual report; availability of report and other writings to public.

Sec. 6. (1) The board shall meet not more than 30 days after it is constituted and elect from its members a chairperson, vice-chairperson and from its members, or otherwise, a secretary. The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the

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Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) Additional meetings of the board shall be held at times and places as the board determines. The board shall specify dates spaced at no more than 6-month intervals on which examinations for examiner's licenses will be held. A majority of the members of the board constitutes a quorum, and the vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board. Members of the board shall be reimbursed for actual and necessary travel and other expenses incurred in performing official duties.

(3) The board shall make an annual report of its activities to the governor beginning with the fiscal year ending June 30, 1973. The report and other writings prepared, owned, used, in the possession of, or retained by the board in performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1972, Act 295, Eff. Mar. 30, 1973;—Am. 1977, Act 206, Imd. Eff. Nov. 17, 1977.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1707 Rules; filing of applications; collection and disposition of fees; order as prima facie proof; appropriation of funds.

Sec. 7. (1) The department shall promulgate rules consistent with the provisions of this act for the dissemination, retention and destruction of polygraph results to protect the general public for the administration and enforcement of this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An application for an examination, license, renewal or other provisions under this act shall comply with the requirements of the department and board and shall be accompanied by the license fee, which is not returnable except by a showing of mistake, inadvertence, error in the collection of the fee, or pursuant to section 15(3).

(2) An order or a certified copy, over the board seal and purporting to be signed by the board members or board chair shall be prima facie proof of the following:

(a) That the signatures are the genuine signatures of the board members or the board chair.

(b) That the board members or the chair are duly appointed and qualified.

(c) That the board and its members are fully qualified to act.

(3) All fees collected under this act shall be deposited to the credit of the general fund of the state. Funds necessary for the enforcement and administration of this act shall be appropriated by the legislature within the budget of the department of labor and economic growth.

History: 1972, Act 295, Eff. Mar. 30, 1973;—Am. 2004, Act 276, Imd. Eff. July 23, 2004.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

Administrative rules: R 338.9001 et seq. of the Michigan Administrative Code.

338.1708 Activities requiring license.

Sec. 8. A person, including city, county or state employees, shall not use or attempt to use any instrumentation or mechanical device for the purpose of detecting deception, verifying truthfulness or reporting a diagnostic opinion regarding either of these; purport to detect deception or verify truthfulness through instrumentation or mechanical devices; advertise or represent that he can or does offer the service of detecting deception, verifying truthfulness or reporting a diagnostic opinion regarding an individual's deception or truthfulness through instrumentation or mechanical devices; attempt to hold himself out as a polygraph examiner or refer to himself by any terminology which would indicate or convey the impression that he can or does purport to detect deception or verify truthfulness through instrumentation; or use any of the technical descriptive terminology peculiar to, or interchangeable with, the administration of polygraph examinations, the interpretation thereof or the detection of deception and the verification of truthfulness resulting therefrom without first securing a license as provided in this act.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department

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of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1709 Examiner's license; issuance without examination; conditions and qualifications.

Sec. 9. A person upon application to the board dated within 1 year after the effective date of this act, and upon payment of the required license fee, shall be issued an examiner's license hereunder, without examination, if he satisfies the registration requirements established by the board and satisfies the board by affidavit or otherwise that he is qualified as follows:

(a) He has either 1 of the following:

(*i*) He has actually engaged in the occupation, profession or practice as an examiner prior to January 1, 1969, and continuously since that time, utilizing exclusively during that period instrumentation which satisfies the requirements of section 4.

(*ii*) He has actually engaged in an internship training program, or similar arrangement on a full-time basis prior to the effective date of this act or has satisfactorily completed such internship training program or similar arrangement and has engaged in the occupation, profession or practice as an examiner or intern prior to the effective date of this act, utilizing exclusively during that period instrumentation which satisfies the requirements of section 4.

(b) He substantially fulfills the requirements for licensing as set forth in section 10. The board may issue temporary examiner's licenses to an applicant who otherwise qualifies under section 10 except for the time and experience factors set forth in section 10 to enable the fulfillment of these requirements by the applicant.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1710 Examiner's license; qualifications.

Sec. 10. (1) Upon application and payment of the required fee, a person fulfilling the following is qualified to receive a license as an examiner:

(a) Is at least 18 years of age.

(b) Is a citizen of the United States.

(c) Has not been under sentence for the commission of a felony within 5 years prior to his or her application, including parole, probation, or actual incarceration.

(d) Has either 1 of the following, subject to subsection (2):

(*i*) An academic degree, at least at the baccalaureate level, from an accredited college or university, with an academic degree to include specialized study in 1 academic major, or 2 academic minor areas that the department determines to be suitable for and related to specialization as an examiner.

(*ii*) A high school diploma or its equivalent from an accredited high school and at least 5 years of continuous investigative experience with a recognized governmental law enforcement or governmental investigative agency.

(e) Has either 1 of the following:

(*i*) Has satisfactorily completed an internship training program approved by the department.

(*ii*) Satisfies the department that he or she has training or experience equivalent to an internship training program described in subparagraph (*i*).

(f) Furnishes the department with satisfactory proof that he or she has suitable experience in the personal administration of polygraph examinations during an internship, or its equivalent.

(g) Furnishes the department with a completed fingerprint card, bearing the applicant's fingerprints and such other identifying information or certification as to their authenticity as the department may reasonably require and arranges for the conduct of a criminal history check that fails to demonstrate ineligibility under this section. The department shall submit the applicant's fingerprints along with the appropriate state and federal fees to the department of state police for a criminal history check. The department of state police may then forward the fingerprints to the federal bureau of investigation for a criminal history check. The fee shall be paid by the applicant and shall accompany the submission of the fingerprints to the department. The information obtained as a result of the criminal history check of an applicant shall be limited to officially determining the character and fitness of the applicant for licensing purposes.

(h) Has not previously had an examiner's license, or its equivalent, refused, revoked, suspended or otherwise invalidated for a reason that would also represent lawful grounds for revoking or denying

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applicant's license under this act.

(i) Upon reasonable investigation, satisfies the department that no substantial derogatory information exists regarding applicant's loyalty, honesty, or integrity as would reasonably and prudently justify denying him or her a license.

(j) Has continuously resided in this state or has been continuously eligible to apply for an absentee voter's ballot for the general elections in this state for at least 6 calendar months immediately before the date of the application; or any combination of these 2 requirements that totals at least 6 calendar months.

(k) Has satisfactorily passed required qualifying examinations conducted by the department, or under its supervision, to determine his or her competency to obtain a license to practice as an examiner, except that the applicant first shall have satisfied all the other requirements in this section before taking such a qualifying examination.

(2) All applicants shall have received an academic degree, at least at the baccalaureate level, from an accredited college or university, with such academic degree to include specialized study in 1 academic major, or 2 academic minor areas that the department determines to be suitable for and related to specialization as an examiner.

History: 1972, Act 295, Eff. Mar. 30, 1973;—Am. 2005, Act 2, Imd. Eff. Apr. 1, 2005.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1711 Intern's license; qualifications.

Sec. 11. A person is qualified to receive a license as an intern who satisfies the board that he is engaging in an approved internship training program and that he substantially fulfills the basic requirements of this act for licensing as an examiner. The applicant shall not be required to fulfill the experience or residence requirements in subdivisions (e), (f) and (j) of section 10 in qualifying for an intern's license.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1712 Temporary examiner's license; qualifications.

Sec. 12. A person is entitled to receive a temporary examiner's license who fulfills the requirements of the board for such licensing and who satisfies the board that he is either 1 of the following:

(a) That he qualifies under section 9.

(b) That he does not meet the residence requirements set forth in section 10 but does substantially fulfill all the other qualifications for licensing as an examiner under this act.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1713 Irrevocable consent by nonresident applicant to service of process.

Sec. 13. A nonresident applicant for an intern's license or a temporary examiner's license shall file an irrevocable consent that actions against the applicant may be filed in any appropriate court in any county of this state in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the applicant by leaving 2 copies thereof with the board. The consent shall stipulate and agree that such service of process shall be taken and held to be valid and binding for all purposes. The board secretary shall send 1 copy of the process to the applicant at the address shown on the records of the board by registered or certified mail.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

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338.1714 Reciprocity.

Sec. 14. An applicant who is an examiner, licensed under the laws of another state or territory of the United States, may be issued appropriate license without examination by the board upon payment of the required fee and the production of satisfactory proof:

(a) That the requirements for the licensing of examiners in such particular state or territory of the United States were at the date of licensing substantially equivalent to the requirements currently in force in this state to the satisfaction of the board.

(b) That any requirements currently in force for the licensing of examiners in this state significantly differing from or in addition to the requirements for the licensing of examiners in such particular state or territory of the United States are fulfilled by the applicant to the satisfaction of the board.

(c) That such other state or territory grants similar reciprocity to license holders of this state.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1715 Fees; receipt of completed application; time period for issuance of license; report; "completed application" defined.

Sec. 15. (1) The fees to accompany applications under this act are as follows:

(a) Private examiner's license, original, $100.00; renewal, $50.00.

(b) Public examiner's license, original, $25.00; renewal, $25.00.

(c) Temporary examiner's license, original and renewal:

(*i*) Residents applying under section 9, private examiners, $100.00; public examiners, $25.00.

(*ii*) Nonresidents, 10-day license, $100.00; annual license, original and renewal, $200.00.

(d) Intern's license, original and renewal, $25.00.

(e) Duplication or alteration of license, $5.00.

(f) Reinstatement fee, $25.00.

(g) Licensing examination fee, $50.00.

(2) Beginning the effective date of the amendatory act that added this subsection, the department shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information available electronically, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(3) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(4) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with occupational issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (2).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees and registrants under subsection (3).

(5) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or

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similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

History: 1972, Act 295, Eff. Mar. 30, 1973;—Am. 2004, Act 276, Imd. Eff. July 23, 2004.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1716 Duration of licenses.

Sec. 16. Licenses shall be issued for terms as follows:

(a) Temporary examiner's licenses issued to applicants who qualify under section 9 and examiner's licenses shall be issued for the term of 1 calendar year, or such portion thereof as remains at the time issued. Each license shall be renewed during the month of December of each year. A license not renewed shall expire at midnight on December 31. A license which has expired may be renewed in accordance with the requirements of the board and payment of the required fee.

(b) Temporary examiner's licenses issued to persons who do not satisfy the residence requirements in section 10 shall be issued for a specific term as determined by the fee paid and may be renewed in accordance with the requirements of the board.

(c) Intern licenses shall be issued for the term of 6 calendar months and may be renewed for additional 6-month terms, if the intern satisfies the requirements of the board regarding the internship.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1717 Specific requirements as to licenses.

Sec. 17. The board shall establish requirements for the form, issuance, display, change of address notification, surrender and evidence of licenses.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1718 Renewal of examiner's license.

Sec. 18. The license of an examiner which has not been revoked or is not suspended shall be renewed annually upon application and payment of the required fee by the examiner.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1719 Refusal to issue or suspension or revocation of license; grounds.

Sec. 19. The board may refuse to issue a license, or may suspend or revoke a license on 1 or more of the following grounds, if the holder or applicant for a license has:

(a) Made a material misstatement in the application for a license or in the application for a renewal license.

(b) Disregarded or violated this act or any rule promulgated pursuant to this act.

(c) Been convicted of a felony; a misdemeanor punishable by more than 1 year imprisonment; or any crime involving moral turpitude including, but not limited to, dishonesty or fraud, or unauthorized divulging or selling of information or evidence.

(d) Made a misrepresentation or false promise or caused to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or interns.

(e) Demonstrated unworthiness or incompetency to act as an examiner or intern in a manner as to affect the interests of the public.

(f) Allowed his or her license to be used by an unlicensed person in violation of this act.

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(g) Aided or abetted another in the violation of this act or of any rule promulgated pursuant to this act.

(h) Been adjudged mentally ill, mentally deficient, or in need of mental treatment.

(i) Failed, within a reasonable time, to provide information requested by the board as the result of a formal complaint in writing to the board, or as the result of substantive information otherwise received by the board which would reasonably indicate a violation of this act, or any rules promulgated pursuant to this act.

(j) Asked test questions during a polygraph examination regarding the examinee's sexual practices, labor union, political, or religious affiliations, or his or her martial relationship, except where such questions have a bearing on the areas or issues under examination.

(k) Failed to inform the examinee of all specific question areas to be explored prior to their actual exploration during the examination.

(*l*) Conducted an examination without having informed the examinee of all of the following:

(*i*) The examinee has the right to refuse or accept the examination.

(*ii*) The examinee cannot be discharged from employment solely because he or she so refuses or accepts the examination.

(*iii*) The examinee cannot be denied employment solely because he or she so refuses or accepts the examination.

(*iv*) The examinee has the right to halt an examination in progress at any time.

(*v*) The examinee is not required to answer any questions or give any information.

(*vi*) Any information that the examinee volunteers could be used against him or her, or made available to the party requesting the examination, unless otherwise specified and agreed to in writing.

(m) Conducted an examination that he or she knew or should have known violated the polygraph protection act of 1981.

History: 1972, Act 295, Eff. Mar. 30, 1973;—Am. 1982, Act 46, Eff. Mar. 30, 1983.

Compiler's note: In subdivision (j), “martial” evidently should read “marital”.

For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1720 Investigating actions of applicant or licensee; motion or complaint; notice or charges; service of notice; hearing; evidence; continuance; location of hearing; closed hearing; request for public hearing.

Sec. 20. The board upon its own motion and, upon the verified complaint in writing of a person setting forth facts which, if proved, would constitute grounds for denial, suspension, or revocation of a license under this act, shall investigate the actions of an applicant or a person holding or claiming to hold a license. Before denial, suspension, or revocation of a license, and not less than 20 days before the date set for the hearing, the board shall notify the applicant or the holder of a license, in writing, of the nature of the charges and that a hearing will be held on the date designated. The hearing shall determine whether the applicant or holder, called the respondent in this section, may hold the license, and shall afford the respondent an opportunity to be heard in person or by counsel. A written notice may be served by personal delivery to the respondent or by mailing by registered mail with return receipt requested at the address of respondent's last notification to the board. At the time and place fixed in the notice, the board shall hear the charges and both the respondent and complainant shall be accorded ample opportunity to present in person or by counsel statements, testimony, evidence, and arguments as may be pertinent to the charges or to the defense to the charges. The board may continue the hearing from time to time. If the board is not sitting at the time and place fixed in the notice or at the time and place to which the hearing is continued, the board shall continue the hearing for a period not to exceed 30 days. The board for good cause may continue the hearing for longer periods upon stipulation of both parties. All hearings shall be held at locations designated by the board and approved by the director of the department of state police. All hearings shall be closed hearings as authorized by section 8 of Act No. 267 of the Public Acts of 1976, being section 15.268 of the Michigan Compiled Laws, unless the respondent personally, or through counsel, submits a written request for a public hearing.

History: 1972, Act 295, Eff. Mar. 30, 1973;—Am. 1977, Act 206, Imd. Eff. Nov. 17, 1977.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1721 Surrender or seizure of license.

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Sec. 21. Upon the revocation or suspension of a license, the licensee shall surrender the license to the board and if the licensee fails to do so, the board may seize it.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1722 Reinstatement of license.

Sec. 22. Any time after suspension or revocation of a license, it may be reinstated at the discretion of the board, upon application and payment of the required fee.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1723 Transcripts and records of proceedings before board; motion for rehearing.

Sec. 23. (1) The board shall provide for the transcribing and recording of all proceedings before the board and shall furnish a transcript of the record to any party affected by the proceedings upon payment of the costs for the transcript.

(2) In any case involving the denial, suspension or revocation of a license, a copy of the board's report shall be served upon the respondent by the board, either personally or by registered or certified mail as provided in this act for service of notice of hearing. Within 20 days after such service, the respondent may present to the board a motion in writing for rehearing, which written motion shall specify the particular grounds therefor. If a motion for rehearing is not filed, then upon expiration of the time specified for filing such motion; or if a motion for rehearing is denied, then upon such denial, the secretary shall enter an order in accordance with recommendations of the board. If the respondent orders and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the respondent.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1724 Review.

Sec. 24. A person affected by a final administrative decision of the board may have such decision reviewed in accordance with the provisions of law.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1725 Witnesses; documents.

Sec. 25. A circuit judge upon application of the board or of the person against whom proceedings under sections 4, 7, 8, 17 or 19 are pending, may enter an order requiring the attendance of witnesses and their testimony and the production of documents, papers, files, books and records in connection with any hearing in any proceedings under those sections. The judge may compel obedience to this order by proceedings for contempt.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

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338.1726 Repealed. 1982, Act 46, Eff. Mar. 30, 1983.

Compiler's note: The repealed section pertained to prohibitions and conditions regarding polygraph examinations.

338.1726a Administration of test by examiner or intern in violation of polygraph protection act of 1981; misdemeanor; penalty; liability to employee or applicant.

Sec. 26a. (1) An examiner or intern shall not administer a polygraph examination, lie detector test, psychological stress evaluation, or similar test to an employee or applicant for employment that violates the polygraph protection act of 1981.

(2) An examiner or intern who violates this section is guilty of a misdemeanor punishable by a fine of not more than $1,000.00, or by imprisonment for not more than 90 days, or both.

(3) An examiner or intern who violates this section may be liable to the employee or applicant for employment for damages and for costs and statutory attorney fees.

History: Add. 1982, Act 46, Eff. Mar. 30, 1983.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1727 Injunction.

Sec. 27. If any person violates the provisions of this act, the board, in the name of the people of the state, through the attorney general, may apply to a court of competent jurisdiction for an order enjoining the violation or for an order enforcing compliance with this act. Upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise that such person has violated or is violating this act may issue a temporary injunction, without notice or bond, enjoining the continued violation. If it is established that the person has violated or is violating the injunction, the court or any judge thereof may summarily try and punish the offender for contempt of court. Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this act.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1728 Unlawful disclosures; exceptions.

Sec. 28. (1) Any person who is or has been an employee of a licensed examiner shall not divulge to anyone other than his employer or former employer, or as the employer shall direct, except as he may be required by law, any information acquired by him during his employment in respect to any of the work to which he shall have been assigned by the employer. Any employee violating the provisions of this section and any employee who makes a false report to his employer in respect to any work is guilty of a misdemeanor.

(2) Any principal, manager or employee of a licensed examiner who furnishes false information to clients, or who sells, divulges or otherwise discloses to other than clients, except as he may be required by law, any information acquired by him or them during employment by the client is guilty of a misdemeanor, and shall be subjected to immediate suspension of license by the board and revocation of license upon satisfactory proof of the offense. Any communications, oral or written, furnished by a professional man or client to a licensed examiner, or any information secured in connection with an assignment for a client, shall be deemed privileged with the same authority and dignity as are other privileged communications recognized by the courts of this state.

(3) Any recipient of information, report or results from a polygraph examiner, except for the person tested, shall not provide, disclose or convey such information, report or results to a third party except as may be required by law and the rules promulgated by the board in accordance with section 7 of this act.

History: 1972, Act 295, Eff. Mar. 30, 1973.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

338.1729 Violations; penalties.

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Sec. 29. (1) Except as provided in subsections (2) and (3), a person violating this act or falsely stating or representing that he or she is or has been an examiner or intern is guilty of a misdemeanor.

(2) A member of the board who intentionally violates section 6(1) shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976.

(3) If the board arbitrarily and capriciously violates section 6(3), the board shall be subject to the penalties prescribed in Act No. 442 of the Public Acts of 1976.

History: 1972, Act 295, Eff. Mar. 30, 1973;—Am. 1977, Act 206, Imd. Eff. Nov. 17, 1977.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For abolishment of the state board of forensic polygraph examiners and transfer of its powers and duties to the department of labor and economic growth, see E.R.O. No. 2007-18, compiled at MCL 445.2024.

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