

Chapter 703

2013 EDITION

Truth Verification and Deception Detection; Investigators

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OCCUPATIONS AND PROFESSIONS

**TRUTH VERIFICATION AND
DECEPTION DETECTION BY
POLYGRAPH EXAMINERS**

(Generally)

703.010 Definitions. As used in ORS 703.010 to 703.310, unless the context requires otherwise:

(1) “Board” means the Board on Public Safety Standards and Training.

(2) “Department” means the Department of Public Safety Standards and Training.

(3) “Director” means the director of the department.

(4) “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.

(5) “Person” means any individual, firm, association, partnership or corporation.

(6) “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 that records visually, permanently and simultaneously the cardiovascular pattern, the respiratory pattern and the galvanic skin response of the individual being examined.

(7) “Trainee” means a person licensed under ORS 703.010 to 703.310 to engage in an internship. [1975 c.608 §3; 1997 c.853 §45; 2003 c.777 §2]

703.020 [1975 c.608 §1; renumbered 703.325 in 2001]

703.030 Purpose; construction. (1) It is the purpose of ORS 703.010 to 703.310 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, that record visually, permanently and simultaneously the cardiovascular pattern, the respiratory pattern and the galvanic skin response of the individual being examined.

(2) ORS 703.010 to 703.310 shall be liberally construed to regulate all persons described in subsection (1) of this section. A person who purports to be able to detect deception or to verify the truth of statements is not exempt from the provisions of ORS 703.010 to 703.310 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; 2003 c.777 §3]

(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 that person as a polygraph examiner or offer or advertise services as a polygraph examiner unless that person is licensed under ORS 703.010 to 703.310 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; nonrefundable fee. (1) Applications for initial renewal or replacement licenses as polygraph examiners or trainees under ORS 703.010 to 703.310 shall be submitted in writing and under oath to the Department of Public Safety Standards and Training, accompanied by the proper fee therefor specified in ORS 703.110.

(2) A fee submitted to the department may not be refunded. Each application shall be in such form and require such information as the department prescribes. [1975 c.608 §13; 1997 c.853 §46; 1999 c.59 §210]

703.080 License qualifications. (1) To become a trainee an applicant must satisfy ORS 703.090 (1)(a) to (d) and:

(a) Have graduated from a polygraph examiners course approved by the Department of Public Safety Standards and Training; or

(b) Provide documentation of military experience or training that the department determines is substantially equivalent to the education required by paragraph (a) of this subsection.

(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 department shall require such proof as is necessary to establish satisfaction of the additional requirements. [1975 c.608 §14; 1985 c.565 §118; 1997 c.853 §47; 2012 c.43 §27]

703.090 General polygraph examiner license qualifications; authority of department to require fingerprints; statement on refusal to issue license. (1) All of the following requirements apply to an applicant for a license as a general polygraph examiner. The applicant 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 Department of Public Safety Standards and Training, relating to the circumstances of the conviction. ORS 670.280 is applicable when the department considers information provided under this paragraph.

(e)(A) Have received a baccalaureate degree from a college or university that is accredited by the American Association of Collegiate Registrars and Admissions Officers; or

(B) Have graduated from high school or have been awarded a General Educational Development (GED) certificate, 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 department and conforming to any minimum training standards approved by the Board on Public Safety Standards and Training and have satisfactorily completed at least 200 examinations, or have worked as a polygraph examiner for a period of at least five years for a governmental agency within the State of Oregon and have satisfactorily completed at least 200 examinations.

(g) Have successfully completed an examination conducted by the department to determine, consistent with any standards approved by the board, competency to act as a polygraph examiner.

(2) An applicant meets the requirements of subsection (1)(e) or (f) of this section if the applicant provides the Department of Public Safety Standards and Training with documentation of military training or experience that the department determines is substantially equivalent to the education or experience required by subsection (1)(e) or (f) of this section.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Department of Public Safety Standards and Training shall require each applicant to be fingerprinted as part of the licensing procedure.

(4) Notwithstanding ORS 181.534 (5) and (6), the Department of State Police shall maintain in the department's files fingerprint cards submitted to it for purposes of conducting a state or nationwide criminal records check under ORS 181.534 on applicants for a license as a general polygraph examiner.

(5) When the Department of Public Safety Standards and Training refuses to issue a license based upon an applicant's failure to meet the requirements of subsection (1)(c) of this section, the department shall prepare a concise, specific written statement of the facts supporting the department'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 must be given to the applicant. [1975 c.608 §15; 1979 c.410 §9; 1997 c.853 §48; 2003 c.166 §4; 2005 c.730 §42; 2011 c.261 §1; 2012 c.43 §28]

703.100 Term and renewal of licenses.

(1) Each polygraph examiner's license issued by the Department of Public Safety Standards and Training under ORS 703.010 to 703.310 shall be issued for a period of one year. The department 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 department 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; 1997 c.853 §49]

703.110 Fees. The following fees shall be charged by the Department of Public Safety Standards and Training in carrying out ORS 703.010 to 703.310:

(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 department 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 department, for issuance by the department 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; 1997 c.853 §50]

703.120 Nonresident licensees; service of process. (1) The Department of Public Safety Standards and Training may license a person who is not a resident of this state as a polygraph examiner as otherwise provided under ORS 703.010 to 703.310. However, any such person must include with the application for a license or renewal thereof an irrevocable written consent permitting the 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 director. The 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 department. [1975 c.608 §17; 1997 c.853 §51]

703.130 Reciprocity for persons licensed in another jurisdiction; qualifications; fee. The Department of Public Safety Standards and Training 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 department and upon payment to the department of a fee of \$50, payable to the department, if the department 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 to 703.310 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; 1997 c.853 §52]

703.140 Display of license; notification of change of place of business. (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 Department of Public Safety Standards and Training 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 department of failure by a licensee to comply with this section, the department shall suspend immediately such license. [1975 c.608 §24; 1997 c.853 §53]

(Administration)

703.200 Issuance of licenses; examination and internship requirements. (1) The Department of Public Safety Standards and Training may issue licenses for polygraph examiners and trainees in accordance with ORS 703.010 to 703.310.

(2) The department shall prescribe the manner and contents of any examination conducted by it under ORS 703.010 to 703.310.

(3) The department may prescribe the requirements for internship of any person who is licensed as a trainee under ORS 703.010 to 703.310. [1975 c.608 §16; 1997 c.853 §54]

703.210 Suspension, revocation or issuance refusal; conditions. The Department of Public Safety Standards and Training 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 to 703.310;

(4) Willfully disregarded or violated any provision of ORS 703.010 to 703.310 or any rule adopted pursuant thereto, including but not limited to the willful making of a false report of a polygraph examination;

(5) Made any willful 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 to 703.310 or any rule adopted pursuant thereto to be used by another person;

(8) Has willfully aided or abetted any violation of ORS 703.010 to 703.310 or any rule adopted pursuant thereto; or

(9) Has failed, within a reasonable time, to provide any information requested by the department after the receipt by the department of a complaint alleging that such person has violated a provision of ORS 703.010 to 703.310 or any rule adopted pursuant thereto. [1975 c.608 §21; 1997 c.853 §55]

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 Department of Public Safety Standards and Training of the license of a polygraph examiner or trainee, a polygraph examiner or trainee shall surrender immediately the license to the department. The department may restore a suspended or revoked license to the prior holder thereof at such time and under such conditions as the department deems appropriate. [1975 c.608 §22; 1997 c.853 §56]

703.230 Procedures and rules. (1) The Department of Public Safety Standards and Training shall conduct all proceedings under ORS 703.010 to 703.310 in accordance with ORS chapter 183. Judicial review of an action of the department shall be provided in ORS 183.480, 183.485, 183.490 and 183.500.

(2) The Board on Public Safety Standards and Training, or the department with the board's approval, shall adopt, in accordance with ORS chapter 183, rules for the administration and enforcement of ORS 703.010 to 703.310. [1975 c.608 §§11,12; 1997 c.853 §57]

703.240 Disposition of fees. All fees, moneys or other revenues received or collected by the Department of Public Safety Standards and Training under ORS 703.010 to 703.310 shall be deposited in the Police Standards and Training Account. [1975 c.608 §27; 1997 c.853 §58]

(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 to 703.310 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 by polygraph examiners to test or question an individual for the purpose of detecting deception or of verifying the truth of statements made by the individual shall record visually, permanently and simultaneously the cardiovascular pattern, the respiratory pattern and the galvanic skin response of the individual. The patterns of other physiological changes of the individual also may be recorded.

(2) Except as otherwise provided in ORS 703.335, a person may not use any instrument or mechanical device to test or question an individual for the purpose of detecting deception or verifying the truth of statements made by the individual that does not comply with the minimum requirements for the instrument or device under subsection (1) of this section. The Department of Public Safety Standards and Training, in consultation with the Board on Public Safety Standards and Training, 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 by a polygraph examiner 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; 1997 c.853 §59; 2003 c.777 §4]

703.320 [1975 c.608 §25; repealed by 2007 c.47 §1]

703.325 Short title. ORS 703.010 to 703.310 shall be known and may be cited as the Polygraph Examiners Act. [Formerly 703.020]

TRUTH VERIFICATION AND DECEPTION DETECTION BY POLICE OFFICERS

703.335 Equipment police officer may use to detect deception or verify truth. A police officer, as defined in ORS 243.005, may use an instrument or mechanical device that does not comply with the minimum requirements under ORS 703.310 (1) to test or question an individual for the purpose of detecting deception or verifying the truth of statements made by the individual if the police officer:

(1) Uses the instrument or mechanical device in the course of the officer's official duties while investigating a crime; and

(2) Is certified to use the instrument or mechanical device by the agency that employs the officer. [2003 c.777 §5]

703.400 [1989 c.1055 §1; 1995 c.386 §8; renumbered 8.415 in 1995]

INVESTIGATORS

703.401 Definitions. As used in ORS 703.401 to 703.490, 703.993 and 703.995, unless the context otherwise requires:

(1) “Client” means a person who engages an investigator, firm, partnership, corporation or other entity for the purpose of conducting lawful activity on the person’s behalf.

(2) “Investigator” means a person who is a licensed investigator under ORS 703.430 and who engages in the business of obtaining or furnishing, or who solicits or accepts employment to obtain or furnish, information about:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activities, movements, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person;

(c) The location, disposition or recovery of lost or stolen property;

(d) The cause of or responsibility for fires, libels, losses, accidents, damages or injuries to persons or property; or

(e) Evidence to be used before any court, board, officer, referee, arbitrator or investigation committee. [1997 c.870 §1; 2001 c.838 §1; 2005 c.613 §9]

703.402 [1989 c.1055 §4; 1995 c.386 §9; renumbered 8.420 in 1995]

703.404 [1989 c.1055 §8; 1995 c.386 §10; renumbered 8.430 in 1995]

703.405 License requirement. A person may not act as an investigator or represent that the person is an investigator unless that person is licensed under ORS 703.430. [1997 c.870 §2; 2001 c.838 §2]

703.406 [1989 c.1055 §§2,3,7(2); 1995 c.386 §11; renumbered 8.435 in 1995]

703.407 Expert witness exception. The licensing requirement of ORS 703.405 does not apply to a person while the person is:

(1) Providing testimony in a court as an expert under ORS 40.410; or

(2) Conducting investigations or reviews or engaging in other activities in preparation for providing testimony in a court as an expert under ORS 40.410. [2003 c.687 §14; 2005 c.613 §10]

Note: 703.407 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 703 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

703.408 [1989 c.1055 §5; 1995 c.386 §12; renumbered 8.440 in 1995]

703.410 [1989 c.1055 §14; 1991 c.703 §39; 1991 c.794 §1; 1995 c.386 §13; renumbered 8.445 in 1995]

703.411 Exceptions. ORS 703.401 to 703.490, 703.993 and 703.995 do not apply to:

(1) A person employed exclusively by one employer in connection with the affairs of that employer only;

(2) An officer or employee of the United States, or of this state, or a political subdivision of either, while the officer or employee is engaged in the performance of official duties;

(3) A person acting as a private security professional as defined in ORS 181.870;

(4) A person who is employed full-time as a peace officer, as defined in ORS 161.015, who receives compensation for private employment as an investigator, provided that services are performed for no more than one person or one client;

(5) A person that provides secured transportation and protection, from one place or point to another place or point, of money, currency, coins, bullion, securities, bonds, jewelry or other valuables;

(6) A person that places, leases, rents or sells an animal for the purpose of protecting property, or any person that is contracted to train an animal for the purpose of protecting property;

(7) A person engaged in the business of obtaining and furnishing information regarding the financial rating of persons;

(8) An attorney admitted to practice law in this state performing the attorney’s duties as an attorney;

(9) A legal assistant or paralegal engaged in activity for which the person is employed by an attorney admitted to practice law in this state;

(10) Insurers, insurance adjusters and insurance producers licensed in this state and performing duties in connection with insurance transacted by them;

(11) Any secured creditor engaged in the repossession of the creditor’s collateral and any lessor engaged in the repossession of leased property in which it claims an interest;

(12) An employee of a cattle association who is engaged in inspection of brands of livestock under the authority granted to that cattle association by the Packers and Stockyards Division of the United States Department of Agriculture;

(13) Common carriers by rail engaged in interstate commerce and regulated by state and federal authorities and transporting commodities essential to the national defense

or to the general welfare and safety of the community;

(14) Any news media and the employees thereof when engaged in obtaining information for the purpose of disseminating news to the public;

(15) A legal process service company attempting to serve legal process;

(16) A landlord or an agent of a landlord performing duties in connection with rental property transactions; or

(17) An engineer or employee of an engineer while the engineer or employee is performing duties as an engineer or on behalf of an engineer. As used in this subsection, "engineer" has the meaning given that term in ORS 672.002. [1997 c.870 §3; 2003 c.364 §57; 2003 c.764 §1; 2005 c.22 §482; 2005 c.447 §14]

703.412 [1989 c.1055 §6; 1995 c.386 §14; renumbered 8.450 in 1995]

703.414 [1989 c.1055 §§9,11; 1995 c.386 §15; renumbered 8.455 in 1995]

703.415 Investigator's license qualifications. In order to obtain a private investigator's license, a person:

(1) Must be at least 18 years of age;

(2) Must be eligible to work in the United States;

(3) Must not have committed any act that constitutes grounds for denial of a private investigator's license;

(4) Must have obtained a passing score on the test of investigator competency adopted by the Board on Public Safety Standards and Training and administered by the Department of Public Safety Standards and Training;

(5) Must submit to fingerprinting and criminal records checks as prescribed by the board by rule;

(6) Must have a corporate surety bond, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or such other security as the department may prescribe by rule in the sum of at least \$5,000, or errors and omissions insurance in the sum of at least \$5,000; and

(7) Must have at least 1,500 hours of experience in investigatory work, have completed a related course of study approved by the department or have a combination of work experience and education, including relevant training and experience obtained in the military, approved by the department. [1997 c.870 §4; 2001 c.838 §3; 2005 c.613 §11; 2007 c.320 §2; 2012 c.43 §29]

703.420 [1997 c.870 §5; 1999 c.59 §211; repealed by 2001 c.838 §27]

703.425 Application requirements; fee; rules; investigation of applicant. (1) An application for a private investigator's license or a provisional investigator's license must be in writing on a form prescribed by the Department of Public Safety Standards and Training, stating the applicant's:

(a) Legal name;

(b) Birthdate;

(c) Citizenship;

(d) Physical description;

(e) Current residence;

(f) Residence for the preceding 10 years;

(g) Current employment;

(h) Employment for the preceding 10 years;

(i) Experience qualifications;

(j) Education;

(k) Business address, which may be a post office box; and

(L) Any other information required by the department.

(2) The application must be accompanied by:

(a) The application fee as prescribed by the Board on Public Safety Standards and Training by rule;

(b) Recent photographs of the applicant as prescribed by the board by rule to be used for an identification card and for the files of the department;

(c) Complete sets of the applicant's fingerprints as prescribed by the board by rule;

(d) Three professional references, none of which may be from a person who is related to the applicant by blood or marriage;

(e) Proof of a corporate surety bond, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or such other security as the department may prescribe by rule in the sum of at least \$5,000, or errors and omissions insurance in the sum of at least \$5,000; and

(f) Proof of a passing score on the test of investigator competency adopted by the board and administered by the department.

(3) All applicants must disclose any acts constituting grounds for denial of an investigator's license and must notify the department if the applicant is charged with a criminal offense. The department shall conduct a special review of any applicant making a disclosure under this subsection.

(4) The Department of Public Safety Standards and Training shall forward a complete set of an applicant's fingerprints to the Department of State Police and shall request that the Department of State Police conduct

criminal records checks as provided in ORS 181.534. Notwithstanding ORS 181.534 (5) and (6), the Department of State Police shall maintain in its files the fingerprint cards used to conduct the state criminal records check.

(5) Employees of or partners in a firm who are covered by the firm's errors and omissions insurance meet the requirements of subsection (2)(e) of this section as long as the coverage is at least \$5,000 per investigator. [1997 c.870 §6; 1999 c.59 §212; 1999 c.125 §1; 1999 c.312 §1; 1999 c.363 §1; 2001 c.838 §4; 2005 c.21 §11; 2005 c.730 §§43,89; 2007 c.320 §3]

703.427 [1999 c.125 §2; 2001 c.838 §5; 2005 c.613 §13; repealed by 2005 c.730 §§77,90]

703.430 Issuance of license; expiration; rules; fees. (1) The Department of Public Safety Standards and Training shall issue:

(a) A private investigator's license if the applicant has satisfied the requirements of ORS 703.415 and 703.425 and is in compliance with the rules of the Board on Public Safety Standards and Training and the department.

(b) A provisional investigator's license if the applicant has satisfied the requirements of ORS 703.415 (1) to (6) and 703.425 and is in compliance with the rules of the board and department. A person who has a provisional investigator's license may not employ or supervise other investigators.

(2) The department may issue:

(a) A temporary investigator's license to a person licensed as an investigator by another jurisdiction. The board shall adopt rules to carry out this paragraph including, but not limited to, rules establishing requirements, procedures and fees for issuing a temporary investigator's license and the scope and duration of the license.

(b) An interim investigator's license to a person who:

(A) Has applied for a private investigator's license or a provisional investigator's license and whose application has not been granted or denied;

(B) Works only for a private investigator licensed under this section, an attorney or another employer who has requested that the person be issued an interim investigator's license;

(C) Has never been convicted of, pleaded guilty or no contest to or forfeited security for a crime; and

(D) Meets all requirements established by the board by rule including, but not limited to, rules establishing requirements, procedures and fees for issuing an interim investigator's license and the scope and duration of the license.

(3) A license issued under subsection (1) of this section expires two years following the date of issuance or on the assigned renewal date. [1997 c.870 §7; 2001 c.838 §6; 2005 c.613 §14; 2007 c.320 §4]

703.435 Identification card; rules; obligation to carry; replacement; fees. (1) When issuing a license under ORS 703.430, the Department of Public Safety Standards and Training shall also issue an identification card of a size, design and content as may be determined by the department by rule.

(2) An investigator shall carry at all times, while engaged in the practice of investigating, the identification card issued under this section.

(3) In the event of loss or destruction of a license issued under ORS 703.430 or an identification card issued under this section, the investigator may apply to the department for a replacement. The application must state the circumstances of the loss or destruction. The investigator shall provide recent photographs of the investigator and a replacement application fee as prescribed by the Board on Public Safety Standards and Training by rule. [1997 c.870 §8; 1999 c.125 §3; 1999 c.363 §2; 2001 c.838 §7; 2005 c.613 §15; 2007 c.320 §5]

703.440 Licensing reciprocity. The Department of Public Safety Standards and Training may enter into a reciprocal agreement with the appropriate official of any other state to allow an investigator licensed in the other state to operate in Oregon if the department determines that the requirements for licensure in that state are substantially similar to the requirements under Oregon law. [1997 c.870 §17; 2005 c.613 §16]

703.445 Renewal procedure; fee; penalty; inactive status. (1) An investigator who desires to continue to practice in this state must apply for renewal and pay the renewal fee as prescribed by rule of the Board on Public Safety Standards and Training to the Department of Public Safety Standards and Training on or before the renewal date of the license. Any person who fails to pay the renewal fee by the renewal date may, within the following 30 days, pay the renewal fee plus a penalty in an amount to be prescribed by board rule, not to exceed twice the amount of the renewal fee. Any person who fails to pay the renewal fee, with accrued penalties, for a period of 30 days after the renewal date forfeits the right to work as an investigator in this state and may be reinstated only upon compliance with the initial application procedures.

(2) Prior to renewing a license, the Department of Public Safety Standards and Training may request that the Department of State Police conduct criminal records

checks as provided in ORS 181.534. Any act that is grounds for denying an initial application for a license is grounds for refusing to renew a license.

(3) An investigator may request the Department of Public Safety Standards and Training to place the investigator on inactive status at any time during the licensing period. Upon payment of the inactive license fee as prescribed by rule of the board, the department shall place the investigator on inactive status. An investigator on inactive status may not work as an investigator. [1997 c.870 §9; 1999 c.125 §4; 2001 c.838 §8; 2005 c.613 §17; 2005 c.730 §44; 2007 c.320 §6]

703.447 Continuing education. (1)(a) An investigator issued a private investigator's license must complete at least 32 hours of continuing education every two years.

(b) An investigator issued a provisional investigator's license must complete at least 40 hours of continuing education every two years.

(2) An investigator may carry no more than 15 hours of continuing education from one licensing period to the next.

(3) When an investigator applies for renewal of a license under ORS 703.445, the investigator must provide proof of having completed the required continuing education.

(4) As used in this section, "continuing education" means any educational endeavor that reasonably could be considered beneficial to the work of the investigator. Continuing education may be obtained:

(a) Through participation in conferences or educational courses offered by trade schools or colleges, whether as an attendee or a presenter;

(b) Through independent studies;

(c) By publishing articles related to the field of investigation; and

(d) As otherwise provided by the Board on Public Safety Standards and Training by rule. [2001 c.838 §20; 2005 c.613 §18; 2007 c.320 §7]

703.450 Requirements of conduct. A licensed investigator:

(1) May not knowingly make any false report to an employer or client.

(2) May not commit fraud or deceit toward a client or employer.

(3) May not knowingly violate a court order or injunction in the course of business as an investigator.

(4) May not commit an act that reflects adversely on the investigator's honesty, integrity, trustworthiness or fitness to engage in business as an investigator.

(5) May not act unprofessionally while acting as an investigator.

(6) May not use unlicensed persons to conduct investigative activities.

(7) Is responsible for the professional, ethical and legal conduct of the investigator's employees or other persons working under the investigator's supervision.

(8) Shall inform each client that the client has a right to receive a written contract. The contract shall clearly state the task to be performed and the rate of payment.

(9) Shall inform each client that the client is entitled to receive both of the following reports concerning services rendered:

(a) An oral report that is timely and adequate; and

(b) A written report furnished by the investigator within seven days after written request is received from the client.

(10) Shall keep separate and distinct case files for each client and case. Case files must include all written agreements with the client, the date investigative activities began, copies of all correspondence and written reports generated and an accurate accounting of all time spent, activities conducted and expenses incurred by the investigator during the course of the case.

(11) Shall maintain a record of the term of employment of each employee or contractor.

(12) Shall maintain all records and files referred to in this section for not less than seven years.

(13) Shall maintain required security or insurance.

(14) Shall post the license of the investigator in a conspicuous place in the investigator's principal place of business.

(15) Unless performing services for a law enforcement or other governmental agency, may not attempt to give an impression that the investigator is connected in any way with a law enforcement or other governmental agency by any statement or activity, including using a title, wearing a uniform, using a badge or insignia or using an identification card or by any failure to make a statement or act.

(16) Shall maintain the confidentiality of each client as required by rules of professional conduct established by the Board on Public Safety Standards and Training.

(17) May not submit false information to the Department of Public Safety Standards and Training.

(18) May not impede a compliance investigation.

(19) Shall return to the department the license and identification card issued by the

department to the investigator no later than 15 days after the expiration or revocation of the license. [1997 c.870 §10; 1999 c.125 §5; 2001 c.838 §9; 2005 c.613 §19; 2007 c.320 §8]

703.455 [1997 c.870 §11; 2001 c.838 §24; repealed by 2005 c.613 §29]

703.460 Information required; designation of agent for service of process. (1) A licensed investigator shall provide the Department of Public Safety Standards and Training with:

(a) The investigator's legal name, home address and home telephone number; and

(b) The name, physical and mailing addresses and telephone number of the investigator's business.

(2) In addition to the information required by subsection (1) of this section, a licensed investigator who is not a resident of this state shall designate a person to act as the investigator's agent for service of process. The investigator shall make the designation on a form approved by the department and shall include the physical address of the agent's business. When an investigator changes the designated agent, the investigator shall submit a new designation form. To act as an agent under this subsection, the person must be:

(a) An individual who resides in this state and who maintains a business office in this state; or

(b) A corporation that maintains a business office in this state.

(3) An investigator shall notify the department within 10 business days of any change in the information required by this section. [1997 c.870 §12; 2001 c.838 §25; 2005 c.613 §20]

703.465 Discipline or issuance refusal.

(1) The Department of Public Safety Standards and Training may refuse to grant or renew a license, may suspend or revoke a license or may reprimand an investigator for any violation of ORS 703.405, 703.450 or 703.460 or of any rule adopted by the Board on Public Safety Standards and Training or the department.

(2) In determining whether to issue a denial, suspension, revocation or reprimand, the department shall consider the facts of the case as they relate to the person's fitness to practice as an investigator.

(3) As part of the disciplinary process, the department may provide an investigator with an opportunity to correct the deficiencies by allowing the investigator to complete a course of rehabilitation approved by the department.

(4) When the department denies or revokes a license, the applicant or licensee

may not reapply for a license until three years have elapsed from the issuance of the final order of denial or revocation. A person who reapplies after a denial or revocation must prove by a preponderance of the evidence that the grounds for the denial or revocation no longer exist. [1997 c.870 §18; 2001 c.838 §10; 2005 c.613 §21; 2007 c.320 §9]

703.470 Opportunity for hearing; judicial review. (1) If the Department of Public Safety Standards and Training proposes to refuse to issue or renew a license or proposes to suspend or revoke a license or proposes to reprimand an investigator, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS chapter 183. [1997 c.870 §19; 2001 c.838 §11; 2005 c.613 §22]

703.473 Confidentiality of investigator personal identifying information and client files. (1) An investigator's home address, home telephone number, personal electronic mail address, Social Security number, photograph and other personal identifying information are confidential and not subject to disclosure under ORS 192.410 to 192.505 unless written consent to disclose is given by the investigator.

(2) Except as provided by rules established by the Board on Public Safety Standards and Training, investigator client files obtained by the Department of Public Safety Standards and Training are confidential and not subject to disclosure under ORS 192.410 to 192.505.

(3) Information obtained by the department as part of an investigation of a licensee or applicant, including complaints concerning the licensee or applicant, is confidential and not subject to disclosure under ORS 192.410 to 192.505 until the department dismisses the case or issues a proposed order. [2001 c.838 §21; 2005 c.613 §23; 2007 c.320 §10]

703.475 [1997 c.870 §13; 2001 c.838 §12; repealed by 2005 c.613 §29]

703.480 Board and department duties; rules; fees. (1) The Board on Public Safety Standards and Training shall, in collaboration with the Private Security Policy Committee:

(a) Establish reasonable minimum standards of physical, emotional, intellectual and moral fitness for investigators.

(b) Prescribe fees relating to the application for and the issuance, renewal and inactivation of investigators' licenses, and for the issuance of identification cards. Each fee may not exceed the cost of administering the program of the Department of Public Safety Standards and Training for which the fee

was established. The board shall prescribe penalties for late renewal of licenses.

(c) Adopt a test of investigator competency.

(d) Establish rules of professional conduct to be followed by investigators.

(e) Adopt rules specifying those crimes and violations for which a conviction requires the denial, suspension or revocation of licensure as an investigator.

(2) The department shall:

(a) Investigate alleged violations of ORS 703.401 to 703.490 and of any rules adopted by the board or department. Notwithstanding ORS 703.473 (3), when the department conducts an investigation under this paragraph, all information about the alleged violation and the investigation is confidential and is not subject to disclosure under ORS 192.410 to 192.505 if the department determines that the allegation is false.

(b) Collect fees as prescribed by the board.

(c) Establish a website on the Internet that lists each investigator with the investigator's license number, business address and business telephone number.

(d) Provide professional development opportunity information to investigators.

(3) The board shall adopt rules necessary to carry out the board's duties and powers under ORS 703.401 to 703.490.

(4) The department shall adopt rules necessary to carry out the department's duties and powers under ORS 703.401 to 703.490.

(5) For efficiency, board and department rules adopted under this section may be adopted jointly with the approval of the board and the department. [1997 c.870 §14; 2001 c.838 §14; 2003 c.14 §442; 2005 c.613 §24; 2007 c.320 §1]

703.485 [1997 c.870 §15; 2001 c.838 §15; repealed by 2005 c.613 §29]

703.490 Moneys credited to Police Standards and Training Account. All moneys received by the Department of Public Safety Standards and Training under ORS 703.401 to 703.490, 703.993 and 703.995 shall be paid into the General Fund in the State Treasury and credited to the Police Standards and Training Account established in ORS 181.690. [1997 c.870 §16; 2001 c.838 §18; 2005 c.613 §25; 2007 c.362 §3]

703.850 [1989 c.1055 §12; 1991 c.734 §92; repealed by 1995 c.386 §1]

PENALTIES

703.990 Criminal penalties for polygraph examiners. Violation of any provision of ORS 703.010 to 703.310 or of any rule adopted thereunder is a Class A misdemeanor. [1975 c.608 §28]

703.993 Criminal penalties for investigators. (1) A person commits a Class A misdemeanor if the person knowingly falsifies the fingerprints, photographs or other data pertinent to an application for a license or identification card under the provisions of ORS 703.425, 703.430 or 703.435.

(2) A person commits a Class B misdemeanor if the person knowingly practices as an investigator without a license as required by ORS 703.405.

(3) An investigator who fails to carry the identification card as required by ORS 703.435 commits a Class A violation. [1997 c.870 §21; 2001 c.838 §16]

703.995 Civil penalties for investigators. (1) In addition to any other penalty provided by law, a person who violates any provision of ORS 703.401 to 703.490 or any rule adopted thereunder:

(a) Is subject to payment of a civil penalty in an amount of not more than \$500 for each offense; and

(b) May be assessed the costs of the disciplinary proceedings as a civil penalty.

(2) Notwithstanding subsection (1)(a) of this section, if a person violates ORS 703.405, the person is subject to payment of a civil penalty in an amount of not more than \$5,000 for each violation with maximum penalties not to exceed \$10,000 per year. The amount of a penalty under this subsection shall be determined by taking into consideration the gravity of the violation, the previous record of the violator in complying or failing to comply with requirements imposed on the violator and any other considerations the Department of Public Safety Standards and Training deems appropriate.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(4) Judicial review of civil penalties imposed under this section shall be as provided under ORS 183.480, except that the court may reduce the amount of the penalty. [1997 c.870 §20; 1999 c.1051 §220; 2001 c.838 §17; 2005 c.613 §26]