

Chapter 703

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Polygraph Examiners; Investigators

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POLYGRAPH EXAMINERS

(Generally)

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

(1) “Board” means the Board on 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 and licensed as such under this section and ORS 703.030 to 703.320.

(7) “Trainee” means a person licensed under this section and ORS 703.030 to 703.320 to engage in an internship. [1975 c.608 s.3; 1997 c.853 s.45]

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

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

(2) ORS 703.010 and 703.030 to 703.320 shall be liberally construed to regulate all persons described in subsection (1) of this section. No person who purports to be able to detect deception or to verify the truth of statements shall be exempted from the provisions of ORS 703.010 and 703.030 to 703.320 because of the terminology used to describe the person, the instruments or mechanical devices of the person, or the nature of the services of the person. [1975 c.608 s.2; 1987 c.158 s.149]

(Licensing)

703.050 Polygraph examiner license requirement. No person, including persons employed by a state agency or public body in this state, may engage in conducting 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 and 703.030 to 703.320 as a polygraph examiner. [1975 c.608 s.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 s.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 and 703.030 to 703.320 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 s.13; 1997 c.853 s.46; 1999 c.59 s.210]

703.080 License qualifications. (1) To become a trainee an applicant shall satisfy ORS 703.090 (1)(a) to (d) and have graduated from a polygraph examiners course approved by the Department of Public Safety Standards and Training.

(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 s.14; 1985 c.565 s.118; 1997 c.853 s.47]

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

(a) Be at least 18 years of age;

(b) Be a citizen of the United States;

(c) Not have demonstrated, in the preceding 10 years, a course of behavior that indicates a high degree of probability that the applicant will be unlikely to perform the duties of a polygraph examiner in a manner that would serve the interests of the public;

(d) If previously convicted for a criminal offense, provide information, as required by the 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) Have received a baccalaureate degree from a college or university that is accredited by the American Association of Collegiate Registrars and Admissions Officers; or, in lieu thereof, be a graduate of an accredited high school and have at least five years of active investigative experience before the date of application;

(f) Have graduated from a polygraph examiners course approved by the 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 five years for a governmental agency within the State of Oregon and have completed 200 examinations; and

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

(2) When the department 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 shall be given to the applicant. [1975 c.608 s.15; 1979 c.410 s.9; 1997 c.853 s.48]

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 and 703.030 to 703.320 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 s.20; 1997 c.853 s.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 and 703.030 to 703.320:

- (1) The fee of \$50 for the issuance of each original license as a general polygraph examiner.
- (2) The fee of \$50 for the annual renewal of a license as a general polygraph examiner.
- (3) The fee of \$50 for examination by the 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 s.23; 1979 c.410 s.10; 1997 c.853 s.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 and 703.030 to 703.320. However, any such person must include with the application for a license or renewal thereof an irrevocable written consent permitting the 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 s.17; 1997 c.853 s.51]

703.130 Reciprocity for persons licensed by federal or state governments; qualifications. 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 and 703.030 to 703.320 for the licensing and regulation of polygraph examiners in this state;
- (4) Is licensed by another state or territory that grants reciprocity to polygraph examiners licensed in this state; and
- (5) If a nonresident of this state, has complied with the requirements of ORS 703.120. [1975 c.608 s.19; 1979 c.410 s.11; 1997 c.853 s.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 s.24; 1997 c.853 s.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 and 703.030 to 703.320.

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

(3) The department may prescribe the requirements for internship of any person who is licensed as a trainee under ORS 703.010 and 703.030 to 703.320. [1975 c.608 s.16; 1997 c.853 s.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 and 703.030 to 703.320;

(4) Willfully disregarded or violated any provision of ORS 703.010 and 703.030 to 703.320 or any rule adopted pursuant thereto, including but not limited to the 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 and 703.030 to 703.320 or any rule adopted pursuant thereto to be used by another person;

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

(9) Has failed, within a reasonable time, to provide any information requested by the department after the receipt by the department of a complaint alleging that such person has violated a provision of ORS 703.010 and 703.030 to 703.320 or any rule adopted pursuant thereto. [1975 c.608 s.21; 1997 c.853 s.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 s.22; 1997 c.853 s.56]

703.230 Procedures and rules. (1) The Department of Public Safety Standards and Training shall conduct all proceedings under ORS 703.010 and 703.030 to 703.320 in accordance with ORS 183.310 to 183.550. Judicial review of an action of the 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 183.310 to 183.550, rules for the administration and enforcement of ORS 703.010 and 703.030 to 703.320. [1975 c.608 ss.11,12; 1997 c.853 s.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 and 703.030 to 703.320 shall be deposited in the Police Standards and Training Account. [1975 c.608 s.27; 1997 c.853 s.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 and 703.030 to 703.320 as a polygraph examiner at the time of the making of such contract or at the time of the performance of such services as a polygraph examiner. [1975 c.608 s.5]

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

(2) No person may use any instrument or mechanical device to test or question individuals for the purpose of detecting deception or verifying the truth of statements made by the individuals that does not comply with the minimum requirements therefor under subsection (1) of this section. The 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 of any instrumentation or mechanical device that does not comply with the minimum requirements specified in subsection (1) of this section. [1975 c.608 s.26; 1997 c.853 s.59]

703.320 Registration with county clerks required. Each polygraph examiner shall register with the county clerk

of each county in which the polygraph examiner maintains a business address. The county clerk shall maintain a list of all the polygraph examiners registered in the county. [1975 c.608 s.25]

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

INVESTIGATORS AND OPERATIVES

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

- (1) "Board" means the Oregon Board of Investigators.
- (2) "Client" means a person that engages an investigator, firm, partnership, corporation or other entity for the purpose of conducting lawful activity on the person's behalf.
- (3) "Investigator" means a person who is a licensed investigator under ORS 703.430 that engages in the business of obtaining or furnishing, or that solicits or accepts employment to obtain or furnish, information with reference to:
 - (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.
- (4) "Operative" means a person who is a registered operative under ORS 703.430 and who performs all work under the direct supervision and control of a licensed investigator or an attorney admitted to practice in this state. [1997 c.870 s.1]

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

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

703.405 License or registration requirement. No person shall act as an investigator or operative or represent that the person is an investigator or operative unless that person is licensed or registered under ORS 703.430. [1997 c.870 s.2]

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

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

703.410 [1989 c.1055 s.14; 1991 c.703 s.39; 1991 c.794 s.1; 1995 c.386 s.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 officer 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 his or her 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, insurance agents and insurance brokers 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; or

(16) A landlord or an agent of a landlord performing duties in connection with rental property transactions. [1997 c.870 s.3]

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

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

703.415 Investigator's license qualifications. An applicant for an investigator's license:

(1) Must be at least 21 years of age;

(2) Must have been actively engaged in investigatory work for a period of not less than one year. Completion of a related course of study at an educational institution certified by the Department of Education within the 18 months prior to application may be substituted for up to six months of the required work experience. This work may have been as an operative for an investigator, a law enforcement agent, an attorney admitted to practice law in any state or an employee in a public agency engaged in investigatory activities, or other equivalent experience as determined by the Oregon Board of Investigators;

(3) Must not have committed any act that constitutes grounds for denial of a license under ORS 703.465 unless the Oregon Board of Investigators concludes that notwithstanding the act or acts, the applicant is fit for the position; and

(4) Must have obtained a passing score on the test of professional investigative ethics administered or approved by the board. [1997 c.870 s.4]

703.420 Operative's registration qualifications. An applicant for an operative's registration:

(1) Must be at least 21 years of age;

(2) Must not have committed any act that constitutes grounds for denial of a registration under ORS 703.465 unless the Oregon Board of Investigators concludes that notwithstanding the act, the applicant is fit for the position; and

(3) Must have obtained a passing score on the test of professional investigative ethics administered or approved by the board. [1997 c.870 s.5; 1999 c.59 s.211]

703.425 Application requirements; fee; investigation of applicant. (1) An application for an investigator's license or operative's registration shall be in writing on a form prescribed by the Oregon Board of Investigators and signed under oath, stating the applicant's:

(a) 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 board.
- (2) The application shall be accompanied by:
 - (a) The application fee as prescribed by the board 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 board;
 - (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 board 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. Failure to maintain such security or insurance is grounds for penalties as the board determines or denial of renewal of a license or registration; and
 - (f) Proof of a passing score on the test of professional investigative ethics administered or approved by the board.
- (3) All applicants must disclose any acts or crimes constituting grounds for denial of a license or registration under ORS 703.465 and must notify the board when the applicant is charged with a criminal offense. The board must conduct a special review of any applicant making a disclosure under this subsection.
- (4) The board shall request criminal offender information from the Department of State Police in the manner required by ORS 703.427.
- (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 s.6; 1999 c.59 s.212; 1999 c.125 s.1; 1999 c.312 s.1; 1999 c.363 s.1]

703.427 Criminal records check. (1)(a) The Oregon Board of Investigators shall forward two complete sets of an applicant's fingerprints to the Department of State Police and request the department to conduct a statewide criminal records check on the applicant.

(b) Upon the request of the board, the Department of State Police shall furnish to the authorized staff of the board such information on an applicant for an investigator's license or an operative's registration as the Department of State Police may have in its possession from its central bureau of criminal identification, including but not limited to manual or computerized criminal offender information. The Department of State Police shall maintain the fingerprint cards used to conduct the statewide criminal records check in its files.

(2)(a) If the background investigation conducted under subsection (1) of this section does not disclose any activity that would disqualify an applicant from becoming an investigator or operative pursuant to ORS 703.465, the Department of State Police shall conduct nationwide criminal records checks of the applicant through the Federal Bureau of Investigation by use of the applicant's fingerprints and shall report the results to the authorized staff of the board, who must be specifically authorized to receive the information.

(b) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used to conduct the criminal records check and shall not keep any record of the fingerprints. However, if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the department shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(c) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the department shall return the fingerprint cards to the board.

(3) For purposes of requesting and receiving the information and data described in subsections (1) and (2) of this section, the board is a designated agency for purposes of ORS 181.010 to 181.560 and 181.715 to 181.730. [1999 c.125 s.2]

Note: 703.427 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.

703.430 Issuance of license and registration; posting of license; operative supervision requirement; expiration. (1) The Oregon Board of Investigators shall issue an investigator's license if the applicant has satisfied the requirements of ORS 703.415 and 703.425. Upon receiving an investigator's license from the board, an investigator shall, at all times, post this license in a conspicuous place in the principal place of business of the investigator.

(2) The board shall issue an operative's registration if the applicant has satisfied the requirements of ORS 703.420

and 703.425. An operative shall, at all times, perform services under the direct supervision and control of a licensed investigator or an attorney admitted to practice in this state.

(3) Any license or registration issued under this section shall expire two years following the date of issuance or on the assigned renewal date. [1997 c.870 s.7]

703.435 Identification card; obligation to carry; return of card; replacement; fees. (1) When issuing an investigator's license or operative's registration, the Oregon Board of Investigators shall also issue an identification card of a size, design and content as may be determined by the board by rule.

(2) Any person licensed or registered by this state as an investigator or operative shall carry at all times, while engaged in the practice of investigating, the identification card issued under this section.

(3) Identification cards remain the property of this state and must be returned to the board within 15 business days after:

- (a) Failure to renew an investigator's license or operative's registration;
- (b) Revocation or suspension of a license or registration by the board; or
- (c) Termination of employment for a registered operative.

(4) In the event of loss or destruction of an identification card, the cardholder may apply to the board for a replacement of the card, stating the circumstances of the loss or destruction. The cardholder shall provide recent photographs of the cardholder and a card replacement application fee as prescribed by the board by rule. [1997 c.870 s.8; 1999 c.125 s.3; 1999 c.363 s.2]

703.440 Licensing reciprocity. The Oregon Board of Investigators 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 board determines that the requirements for licensure in that state are substantially similar to the requirements under Oregon law. [1997 c.870 s.17]

703.445 Renewal procedure; fee; penalty. (1) Every person holding an investigator's license or operative's registration who desires to continue to practice in this state shall apply for renewal and pay the renewal fee as prescribed by rule of the Oregon Board of Investigators to the board on or before the renewal date of the license or registration. 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 current renewal fee. Any person who fails to pay the renewal fee, with accrued penalties, for a period of 30 days after the renewal date shall forfeit the right to work as an investigator or operative in this state and may be reinstated only upon compliance with the initial application procedures.

(2) Prior to renewing a license or registration, the board may request criminal offender information from the Department of State Police as provided in ORS 703.427. Any act that is grounds for denying an initial application for a license or registration is grounds for refusing to renew a license or registration. [1997 c.870 s.9; 1999 c.125 s.4]

703.450 Rules and requirements of conduct. All licensed investigators and registered operatives shall, at all times, observe the following rules and requirements of conduct:

(1) An investigator or operative shall not knowingly make any false report to an employer or client for whom information was being obtained.

(2) An investigator or operative shall not use a badge in connection with the official activities of the investigator's business.

(3) An investigator or operative shall not attempt to give an impression that the investigator or operative is connected in any way with any law enforcement or other governmental entity by any statement or activity, including using a title, wearing a uniform, using an insignia or using an identification card.

(4) An investigator or operative shall use only the official identification card issued by the Oregon Board of Investigators, or the business card regularly used by the investigator's business, to indicate that the investigator or operative is licensed or registered.

(5) All investigators shall be directly responsible for the professional, ethical and legal conduct of their employees and operatives working under their supervision.

(6) All advertisements by an investigator shall contain the company name, address, telephone number and the investigator's license number.

(7) All identification cards, letterhead or other identifiers must contain:

- (a) The individual's name;
 - (b) The business name;
 - (c) The mailing address of the place of business;
 - (d) The business telephone number; and
 - (e) The license or registration number provided by the board.
- (8) An investigator or operative shall notify the board when the investigator or operative is charged with a criminal offense. [1997 c.870 s.10; 1999 c.125 s.5]

703.455 Client rights; reports; records. (1) All investigators and operatives 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.

(2) All investigators and operatives shall inform each client that the client is entitled to receive either of the following reports concerning services rendered:

- (a) An oral report that is timely and adequate when a client does not desire a written report; or
- (b) A written report furnished by the investigator or operative to the client within seven days after written request is received from the client.

(3) All investigators and operatives shall maintain accurate accounting records of time and expenses.

(4) All investigators shall keep separate and distinct case files for each client and case. Case files shall include the date activity began, copies of all correspondence and written reports generated and an accurate accounting of all time and expenses incurred by the investigator or operative during the course of that case.

(5) Each investigator shall maintain a record of the term of employment of each employee and operative.

(6) All records and files referred to in this section shall be maintained for not less than seven years. [1997 c.870 s.11]

703.460 Principal location requirement. Investigators and operatives shall maintain a principal location for the conduct of business. This location, as well as any branch office, shall be registered with the Oregon Board of Investigators. Each investigator or operative shall notify the board within 10 days of any change of the business address of the principal location or of any branch office of the business. [1997 c.870 s.12]

703.465 Discipline or issuance refusal; conditions. The Oregon Board of Investigators may refuse to grant or renew a license or registration, may suspend or revoke a license or registration or may reprimand, censure or impose a period of probation for any of the following reasons:

- (1) A conviction of a felony or of any offense involving moral turpitude;
- (2) A violation of any of the provisions of ORS 703.401 to 703.490, 703.993 and 703.995 or of any rule adopted by the board;
- (3) Any unprofessional conduct or unfitness of the investigator or operative;
- (4) Any act in the course of the investigator's or operative's business constituting dishonesty or fraud;
- (5) The submission of any false information in connection with an application for a license or registration;
- (6) Willful failure or refusal to render services to a client; or
- (7) Knowing violation of any court order or injunction in the course of business as an investigator or operative.

[1997 c.870 s.18]

703.470 Opportunity for hearing; judicial review. (1) If the Oregon Board of Investigators proposes to refuse to issue or renew a license or registration or proposes to suspend or revoke a license or registration or proposes to reprimand, censure or impose a period of probation on an investigator or operative, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS 183.310 to 183.550. [1997 c.870 s.19]

703.475 Oregon Board of Investigators; membership; appointment; reimbursement. (1) There is established an Oregon Board of Investigators. The board shall consist of five members appointed by the Governor for a term of four years. The members shall serve at the pleasure of the Governor. All appointments of members of the board are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565.

(2) Three of the members of the board shall be investigators licensed under ORS 703.430, one member shall be a

representative of the law enforcement community who is not a licensed investigator or registered operative and one member shall be a representative of the general public.

(3) Before entering upon the duties of office, each board member shall subscribe to an oath that the member will faithfully and impartially discharge the duties of office and that the member will support the Constitution of the United States and the Constitution of Oregon. The oath shall be filed with the Secretary of State.

(4) Before the expiration of the term of a member, the Governor shall appoint a successor to assume the duties on January 1 next following. In case of a vacancy for any cause, the Governor shall make an appointment to become effective immediately for the unexpired term.

(5) Each member of the board is entitled to reimbursement of travel expenses in accordance with ORS 292.495 (2). [1997 c.870 s.13]

703.480 Oregon Board of Investigators duties. The Oregon Board of Investigators shall:

- (1) Organize and elect from its membership a president and vice president of the board;
- (2) Adopt and use a common seal;
- (3) Adopt rules necessary for the administration of ORS 703.401 to 703.490, 703.993 and 703.995, in accordance with ORS 183.325 to 183.410;
- (4) Determine the qualifications of investigators and operatives;
- (5) Investigate alleged violations of ORS 703.401 to 703.490, 703.993 and 703.995 and of any rules adopted by the board;
- (6) Prescribe and collect fees for application, licensing and registration, renewal of licenses and registrations and issuance of identification cards. Fees established shall not exceed the cost of administering the program of the board for which the fee was established;
- (7) Administer or approve the test of professional investigative ethics;
- (8) Formulate a code of professional ethics to be followed by investigators and operatives;
- (9) Establish requirements for professional education;
- (10) Authorize all necessary disbursements to carry out the provisions of ORS 703.401 to 703.490, 703.993 and 703.995, including but not limited to payment for necessary supplies and office equipment, payment for legal and investigative services rendered to the board and such other expenditures as are provided for in ORS 703.401 to 703.490, 703.993 and 703.995;
- (11) Employ such persons as are necessary for the investigation and prosecution of alleged violations, for the enforcement of this Act and for such other purposes as the board may require. All obligations for salaries and expenses incurred by the board shall be paid from the fees accruing to the board under ORS 703.401 to 703.490, 703.993 and 703.995 and not otherwise;
- (12) Meet for the transaction of business at the call of the president. A majority of the members constitutes a quorum for the transaction of business and a majority vote of those present shall be a decision of the entire board. The board's proceedings shall be open to public inspection in all matters affecting public interest;
- (13) Keep an accurate record of all proceedings of the board and of all of its meetings, of all investigations of licensees and registrants, and of all examinations held for applicants for licenses or registrations, with the names and addresses of all persons taking examinations and their scores. All records shall be kept in the office of the board. All of the records of the board shall be public. However, investigator or operative client files obtained by the board are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance;
- (14) Keep an accurate inventory of all property of the board, and of this state that is in the possession of the board, with receipts issued from prior possessors;
- (15) Keep a register of investigators and operatives, which shall contain the names and addresses of all persons to whom licenses or registrations have been issued, together with the date of the issuance and the place of business for each investigator or operative, and all renewals, revocations and suspensions for each investigator or operative;
- (16) Impose civil penalties in accordance with ORS 703.995. [1997 c.870 s.14]

703.485 Appointment of administrator; duties. (1) The Oregon Board of Investigators may appoint an administrator, whose salary shall be provided by law or fixed by the Governor.

(2) The administrator shall keep all records of the board and discharge such other duties as the board from time to time prescribes.

(3) The administrator shall appoint all subordinate officers and employees of the board, prescribe their functions

and fix their compensation, in accordance with applicable laws relating to state personnel. [1997 c.870 s.15]

703.490 Oregon Board of Investigators Account. (1) There is created an Oregon Board of Investigators Account in the General Fund of the State Treasury. All moneys received by the Oregon Board of Investigators 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 account. All moneys in the account are continuously appropriated to the Oregon Board of Investigators to be used only for the expenses of administration and enforcement of ORS 703.401 to 703.490, 703.993 and 703.995.

(2) All fines and civil penalties collected or received for violations under ORS 181.871, 703.401 to 703.490, 703.993 and 703.995 shall be paid to the General Fund. [1997 c.870 s.16]

PENALTIES

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

703.990 Criminal penalties for polygraph examiners. Violation of any provision of ORS 703.010 and 703.030 to 703.320 or of any rule adopted thereunder is a Class A misdemeanor. [1975 c.608 s.28]

703.993 Criminal penalties for investigators and operatives. (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, registration 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 or operative without a license or registration as required by ORS 703.405. [1997 c.870 s.21]

703.995 Civil penalties and violations for investigators and operatives. (1) In addition to any other penalty provided by law, a person who violates any provision of ORS 703.401 to 703.490, 703.993 and 703.995 or any rule adopted thereunder is subject to payment of a civil penalty in an amount of not more than \$1,000 for each offense.

(2) A licensed investigator or registered operative who fails to carry the identification card as required by ORS 703.435 commits a Class A violation.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.090.

(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 s.20; 1999 c.1051 s.220]
