

# Chapter 703

2003 EDITION

## Truth Verification and Deception Detection; Investigators

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**OCCUPATIONS AND PROFESSIONS**

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

**(Generally)**

**703.010 Definitions.** As used in ORS 703.010 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 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 703.320 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 703.320 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, 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 703.320 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 703.320 because of the terminology used to describe the person, the instruments or mechanical devices of the person, or the nature of the services of the person. [1975 c.608 §2; 1987 c.158 §149; 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 703.320 as a polygraph examiner. [1975 c.608 §4]

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

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

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

**703.070 License applications; form; nonrefundable fee.** (1) Applications for initial renewal or replacement licenses as polygraph examiners or trainees under ORS 703.010 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 §13; 1997 c.853 §46; 1999 c.59 §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 §14; 1985 c.565 §118; 1997 c.853 §47]

**703.090 General polygraph examiner license qualifications; fingerprinting; 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) The Department of Public Safety Standards and Training shall require each applicant to be fingerprinted as part of the licensing procedure. If a nationwide criminal records check is necessary, the Department of Public Safety Standards and Training shall request the Department of State Police to conduct the check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. The Department of State Police shall report the results of the fingerprint-based criminal records check to the Department of Public Safety Standards and Training. The Department of Public Safety Standards and Training shall designate staff specifically authorized to receive the information obtained under this section. The Department of State Police shall also furnish the Department of Public Safety Standards and Training with any information about the applicant that 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 Public Safety Standards and Training may establish an appropriate fee for the criminal records check not to exceed the costs of conducting the criminal records check through the De-

partment of State Police and the Federal Bureau of Investigation.

(3) 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 shall be given to the applicant. [1975 c.608 §15; 1979 c.410 §9; 1997 c.853 §48; 2003 c.166 §4]

#### **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 703.320 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 §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 703.320:

(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 §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 703.320. 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 §17; 1997 c.853 §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 to 703.320 for the licensing and regulation of polygraph examiners in this state;

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

(5) If a nonresident of this state, has complied with the requirements of ORS 703.120. [1975 c.608 §19; 1979 c.410 §11; 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 703.320.

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

(4) Willfully disregarded or violated any provision of ORS 703.010 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 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 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 to 703.320 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 703.320 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 703.320. [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 703.320 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 703.320 as a polygraph examiner at the time of the mak-

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

**703.325 Short title.** ORS 703.010 to 703.320 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) "Board" means the Oregon Board of Investigators.

(2) "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.

(3) "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]

**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 who:

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

(2) Conducts investigations or reviews or engages in other activities in preparation for providing testimony in a court as an expert under ORS 40.410. [2003 c.687 §14]

**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 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 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]

**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.** (1) In order to obtain an investigator's license, a person:

- (a) Must be at least 18 years of age;
- (b) Must be a citizen of the United States;
- (c) Must not have committed any act that constitutes grounds for denial of a license under ORS 703.465;
- (d) Must have obtained a passing score on the test of professional investigator competency administered or approved by the Oregon Board of Investigators;
- (e) Must submit to fingerprint criminal records checks as prescribed by the board by rule;
- (f) 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 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; and
- (g) Must have at least 1,500 hours of experience in investigatory work or have completed a related course of study approved by the board.

(2) Notwithstanding subsection (1) of this section, a person who meets the requirements of subsection (1)(a) to (f) of this section is eligible for an investigator's license with an endorsement indicating that the license is provisional. [1997 c.870 §4; 2001 c.838 §3]

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

**703.425 Application requirements; fee; investigation of applicant.** (1) An application for an investigator's license must 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 must 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; and
- (f) Proof of a passing score on the test of professional investigator competency administered or approved by the board.

(3) All applicants must disclose any acts or crimes constituting grounds for denial of a license 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 §6; 1999 c.59 §212; 1999 c.125 §1; 1999 c.312 §1; 1999 c.363 §1; 2001 c.838 §4]

**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 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 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 §2; 2001 c.838 §5]

**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; posting of license; expiration; rules.** (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. Notwithstanding the fact that an applicant does not meet the requirement in ORS 703.415 (1)(g), the board shall issue an investigator's license if the applicant has satisfied the remaining requirements of ORS 703.415 and 703.425 and shall endorse the license as provisional. A person who has an investigator's license with a provisional endorsement may not employ or supervise other investigators. 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) A license issued under this section expires two years following the date of issuance or on the assigned renewal date.

(3) When a person who has been issued an investigator's license with a provisional endorsement has acquired the experience or education described in ORS 703.415 (1)(g), the person shall notify the board and request the removal of the endorsement. The board shall adopt by rule an expedited procedure for processing such requests. [1997 c.870 §7; 2001 c.838 §6]

**703.435 Identification card; rules; obligation to carry; return of card; replacement; fees.** (1) When issuing an investigator's license, 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) An investigator 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

(b) Revocation or suspension of a license by the board.

(4) In the event of loss or destruction of an identification card, the investigator may

apply to the board for a replacement of the card, stating the circumstances of the loss or destruction. The investigator shall provide recent photographs of the investigator and a card replacement application fee as prescribed by the board by rule. [1997 c.870 §8; 1999 c.125 §3; 1999 c.363 §2; 2001 c.838 §7]

**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 §17]

**703.445 Renewal procedure; fee; penalty.** (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 Oregon Board of Investigators to the board 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 shall forfeit 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 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 is grounds for refusing to renew a license.

(3) An investigator may choose to become inactive rather than renew a license. The investigator must notify the board of the decision to become inactive. Upon payment of the inactive license fee as prescribed by rule of the board, the board 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]

**703.447 Continuing education.** (1)(a) Except as otherwise provided in paragraph (b) of this subsection, an investigator must complete at least 32 hours of continuing education every two years.

(b) An investigator who has an investigator license with a provisional endorsement 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 by rule. [2001 c.838 §20]

**703.450 Rules and requirements of conduct.** All licensed investigators must, at all times, observe the following rules and requirements of conduct:

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

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

(3) An investigator may not attempt to give an impression that the investigator is connected in any way with any law enforcement agency 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 is responsible for the professional, ethical and legal conduct of the investigator's employees working under the investigator's supervision. [1997 c.870 §10; 1999 c.125 §5; 2001 c.838 §9]

**703.455 Client rights; reports; records.**

(1) All investigators 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 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 to the client within seven days after written request is received from the client.

(3) All investigators 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 during the course of that case.

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

(6) All records and files referred to in this section shall be maintained for not less than seven years. [1997 c.870 §11; 2001 c.838 §24]

**703.460 Principal location requirement.** Investigators 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 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 §12; 2001 c.838 §25]

**703.465 Discipline or issuance refusal; conditions.** (1) The Oregon Board of Investigators may refuse to grant or renew a license, may suspend or revoke a license or may reprimand an investigator for any of the following reasons:

- (a) A conviction of a felony or of any offense involving moral turpitude;
- (b) A violation of ORS 703.450 or of any rule adopted by the board;
- (c) Any unprofessional conduct or unfitness of the investigator;
- (d) Gross or repeated negligence or incompetence in the course of the investigator's business;
- (e) The submission of any false information in connection with an application for or renewal of a license; or
- (f) Knowing violation of any court order or injunction in the course of business as an investigator.

(2) Before the board proposes to suspend or revoke the license of an investigator, the board may attempt to provide the investigator with an opportunity to correct the deficiencies warranting a suspension or revocation by providing the investigator with:

- (a) A mentor;
- (b) Education; or
- (c) Rehabilitation. [1997 c.870 §18; 2001 c.838 §10]

**703.470 Opportunity for hearing; judicial review.** (1) If the Oregon Board of Investigators 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]

**703.473 Confidentiality of investigator's personal identifying information.** An investigator's home address, home telephone number, personal electronic mail address, Social Security number, photograph and other personal identifying information is confidential and not subject to disclosure under ORS 192.410 to 192.505 unless written consent to disclose is given by the investigator. [2001 c.838 §21]

**703.475 Oregon Board of Investigators; membership; appointment; reimbursement.** (1)(a) There is established an Oregon Board of Investigators. The board consists of seven members appointed by the Governor as follows:

(A) Three members must be licensed investigators;

(B) One member must be either a licensed investigator or an active law enforcement officer;

(C) Two members must be members of the Oregon State Bar; and

(D) One member must be a representative of the general public.

(b) In making the appointments, the Governor shall:

(A) Consider a list of candidates submitted to the Governor by a statewide organization of licensed investigators.

(B) Ensure statewide geographic representation.

(c) The term of office of a member of the board is four years. The members serve at the pleasure of the Governor.

(2) 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.

(3) 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.

(4) Each member of the board is entitled to reimbursement of travel expenses in ac-

cordance with ORS 292.495 (2). [1997 c.870 §13; 2001 c.838 §12]

**703.480 Oregon Board of Investigators duties; rules; fees.** 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, in accordance with ORS 183.325 to 183.410.

(4) Investigate alleged violations of ORS 703.401 to 703.490 and of any rules adopted by the board. When the board conducts an investigation under this subsection, the board shall destroy all information about the alleged violation if the board determines that the allegation is false.

(5) Prescribe and collect fees for application, licensing, renewal of licenses, issuance of identification cards and penalties for late renewal of licenses. Fees established may not exceed the cost of administering the program of the board for which the fee was established.

(6) Adopt and administer a test of professional investigator competency.

(7) Formulate a code of professional ethics to be followed by investigators.

(8) 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.

(9) Keep an accurate record of all proceedings and activities of the board. All records shall be kept in the office of the board. All of the records of the board shall be public. However, investigator 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.

(10) Provide an accounting of board funds to every investigator at the end of each odd-numbered fiscal year.

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

(12) Provide professional development opportunity information to investigators. [1997 c.870 §14; 2001 c.838 §14; 2003 c.14 §442]

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

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

(3) The executive director may hire employees and contract for specific services for specific projects. [1997 c.870 §15; 2001 c.838 §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 703.401 to 703.490, 703.993 and 703.995 shall be paid to the General Fund. [1997 c.870 §16; 2001 c.838 §18]

## PENALTIES

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

**703.990 Criminal penalties for polygraph examiners.** Violation of any provision of ORS 703.010 to 703.320 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 is subject to payment of a civil penalty in an amount of not more than \$500 for each offense.

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

(3) 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]

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**OCCUPATIONS AND PROFESSIONS**

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